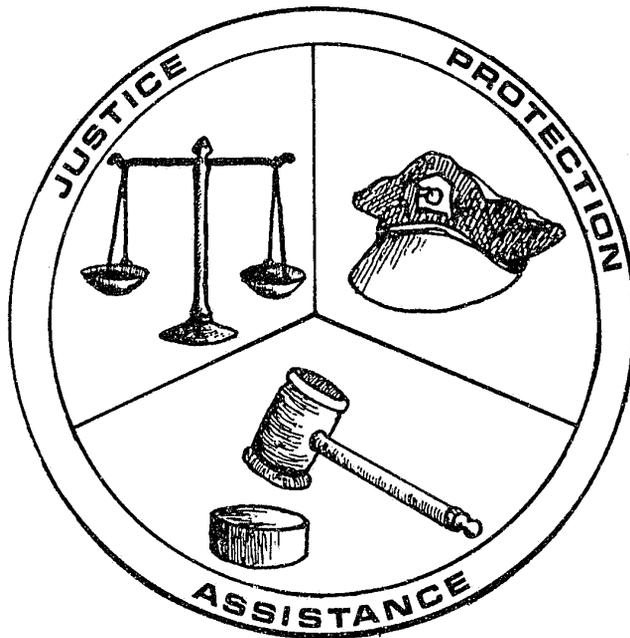




# ILLINOIS DOMESTIC VIOLENCE ACT:

## A VICTIM ADVOCATE'S MANUAL

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# Illinois

# Domestic Violence

# Act:

## A Victim Advocate's Manual

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Neil F. Hartigan, Attorney General

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## CHAPTER I: INTRODUCTION

### A. PURPOSE OF THIS MANUAL

This manual is for advocates working with abused women in shelters, domestic violence programs, social service agencies, mental health centers, hospitals, clinics, and other organizations to which abused women may come for assistance. The manual addresses questions confronting advocates, and specifically reviews the roles of all parties as described in the Illinois Domestic Violence Act (IDVA). After detailing various aspects of domestic violence and the remedies available to its victims under the Act, the manual offers guidelines for advocates to follow in working with police, state's attorneys, and the community at large.

The manual's chief focus is on abused women, but the provisions of the Illinois Domestic Violence Act are applicable to all victims of domestic violence, including children and the elderly. However, since abused women will probably be the largest group of victims utilizing the protections and remedies afforded by the Act, the female pronoun is used to refer to domestic violence victims, and the male pronoun is used in referring to abusers. Advocates working with children and elderly victims of domestic violence will find that most of the procedures and guidelines described in this manual are applicable to their cases.

Chapter III provides a general overview of the plight of the abused woman; the responsibilities of the legal and criminal justice systems under the IDVA; the options and outcomes that the abused woman may experience; and the advocate's role in understanding and assisting her. The chapters that follow cover in more detail the IDVA and the legislated roles and responsibilities of the police, state's attorneys, judges, and private attorneys.

While there may appear to be duplicative information throughout Chapter III and the other chapters, the authors chose to include all sections. Chapter III is to serve as a quick, easy reference and summary guide for advocates.

## B. IMPLEMENTING THE IDVA

The 1982 implementation of the Illinois Domestic Violence Act has created a great opportunity for those concerned about domestic violence. A law now exists which can protect and assist the victims of domestic violence -- but as experience and a realistic view tell us, long-standing attitudes and practices will not change immediately. Much education and advocacy must occur over the years to effect these changes.

In passing the IDVA, the legislators and the people whom they represent have made a statement. Domestic violence has been clearly defined as a crime, and this gives the public a right to expect that the state will treat it as such by punishing the criminal and protecting the victim. This public expectation that the law will be enforced can be one of the strongest forces promoting full implementation of, and compliance with, the IDVA.

Because domestic violence has been accepted for centuries, it is reasonable to expect some resistance to the implementation of this law. Therefore it is essential that as many people as possible be made aware of the law. The larger constituency this law has, the easier the job of the advocate will be. The police, state's attorneys, judges, private attorneys, and legal services will respond to public expectations and pressure. Thus, it is important for advocates to educate the community about domestic violence and the IDVA. It is also important for advocates and community members to monitor the response of parties with responsibilities under the Act and to publicize the information this monitoring yields.

## CHAPTER II: ILLINOIS DOMESTIC VIOLENCE ACT: SUMMARY

The Illinois Domestic Violence Act (Public Act 82-621) went into effect March 1, 1982. Its purposes are:

- To recognize domestic violence as a serious crime against the individual and society, which produces disharmony in thousands of Illinois families, promotes a pattern of escalating violence which frequently culminates in intra-family homicide, and creates an emotional atmosphere that is not conducive to healthy childhood development;
- To provide law enforcement officers with the means to offer immediate, effective assistance and protection to victims of domestic violence, while recognizing that law enforcement officers often become the secondary victims of domestic violence when attempting to intervene; and
- To expand the civil and criminal remedies available to the victims of domestic violence, including, if necessary, the physical separation of the parties to prevent further abuse.

(See Appendix B for a point by point summary of the IDVA and its effects on legal action.)

Although the law was primarily intended to meet the needs of abused women, it can be used to protect male and female victims of all ages, including the elderly and children. The law pertains to any person who seeks protection from another family member or member of the same household.

### A. WHAT CONSTITUTES ABUSE?

The law's definition of abuse includes striking, threatening, harassing, or interfering with personal liberty. Striking includes slapping, hitting, punching, kicking, biting, or any other violent touching. Threatening includes any threats of violence. Harassing can be either physical or mental, including such acts as blocking someone, placing phone calls in the middle of the night, destroying property, following the victim, or interfering with her employment. Interfering with personal liberty includes things such as locking the victim in the house, taking away all money or keys, or otherwise restricting the person's ability to move about freely. Abuse does not include "reasonable discipline" of a child by a parent or by someone acting as the parent.

## B. WHO CAN USE THE DOMESTIC VIOLENCE ACT?

Anyone who has been abused by any other family or household member can use the law. This includes a husband, a wife, a former husband, a former wife, parents, children, or anyone sharing a common household. Thus persons living together but not married are protected, as are ex-spouses even if they no longer share the same household.

Any third party can petition for an Order of Protection on behalf of a minor child or an adult who is prevented by physical or mental incapacity, or by advanced age, from filing on their own behalf.

## C. WHAT KIND OF PROTECTION CAN AN ABUSED PERSON GET?

Under the IDVA, an abused person's chief protection is the issuance of an "Order of Protection" by a judge. This order may include any or all of the following provisions:

- Prohibiting the abuser from threatening further abuse or continuing the abuse;
- Granting exclusive temporary possession of the mutual residence to the victim, or ordering the abuser expelled from the residence (a "vacate order");
- Awarding temporary custody or establishing visitation rights of children;
- Prohibiting child snatching;
- Requiring the abuser to undergo counseling;
- Prohibit the theft or destruction of property;
- Requiring temporary support of the victim or of the abuser's children;
- Requiring compensation for medical and out-of-pocket expenses;
- Requiring payment of court costs and attorney's fees; and
- Providing other temporary remedies that may be appropriate.

Violation of the first two provisions listed above (prohibition of abuse and exclusive possession of residence) poses the gravest danger to victims of domestic violence. Therefore,

violation of either has been established as a Class A misdemeanor punishable by fine and/or a jail term of up to one year. The criminal status of these acts gives police the right to arrest the abuser and provide protection to the victim before further violence occurs. In addition to deterring violation of the order, the criminal penalties should impress upon the abuser/violator the seriousness of his actions. If the abuser violates the other provisions of an Order of Protection, a judge still has discretionary powers to impose fines or other penalties through "contempt of court" proceedings.

#### D. HOW IS AN ORDER OF PROTECTION OBTAINED?

A woman has three options when seeking an Order of Protection. First, she may seek an Order of Protection in civil court in conjunction with a divorce, separation, or custody case. Second, she may obtain the Order of Protection in civil court as an independent action unrelated to any other proceedings. Third, an Order of Protection may be obtained in criminal court if the abuser has been arrested or if the victim has filed charges against him. An Order of Protection can be issued which takes effect before the case goes to court (while the abuser is free on bail or awaiting his court date), during the court proceedings if the case is continued, or after a conviction is obtained as part of the case disposition.

Under certain conditions, an emergency ("ex parte") Order of Protection can be obtained without the abuser being notified; however, it lasts only ten days with one ten day extension possible. After that period the abuser must be afforded all due process before an ongoing order can be granted. Not all remedies are available "ex parte".

#### E. WHAT OTHER PROTECTIONS DOES THE ACT PROVIDE?

The Illinois Domestic Violence Act increases protection for abused women in three ways. It gives: 1) police greater responsibility for assisting victims, reporting incidences of domestic violence, and enforcing Orders of Protection; 2) judges better standards for use in domestic violence cases while increasing their responsibility in granting and denying Orders of Protection; and 3) attorneys better remedies to seek on behalf of the victims of domestic violence. The Order of Protection can provide virtually all the legal remedies a domestic violence victim needs through one court action, and, again, the two remedies designed to protect her are criminally enforceable.

### CHAPTER III: WORKING WITH ABUSED WOMEN

This chapter's main focus is how an advocate can provide direct help to an abused woman. It begins by depicting the type of problems which originally created the need for a stronger law against such violence. It then outlines the advocate's proper role and details the likely needs and options of an abused woman. Some of the difficulties advocates can expect to encounter when working with abused woman are then explored, and the chapter ends with a brief recap of points to review with the abused woman and the possible outcomes of her various actions.

#### A. GETTING HELP FROM THE SYSTEM: PROBLEMS WOMEN HAVE FACED

Simply put, the abused woman has usually turned to the law enforcement and legal systems because she wants the battering to stop. At the time she calls the police, she may be in grave danger and in need of protection. Requesting outside assistance probably is not an easy decision. It is a measure often accompanied by much hesitation, fear, and stigma. But the woman calls the police in a time of crisis because she hopes they can do what she cannot - control another person's actions.

Her reasoning is sound. For some abusers, the mere presence of the police and the possibility of a criminal action is a jolt. For those who have never before been in trouble with the law, or who possess some respect for its authority, police intervention may be enough of a scare to stop the violence. Unfortunately, other abusers who may have found the criminal justice system to be lenient or disinterested in the past, or those who simply do not respect authority, will not be intimidated, and may even verbally or physically attack the police. However, regardless of the abuser's attitude, the abused woman needs a quick and effective response, with the police conducting themselves as they would in responding to any crime.

Historically, many woman have been met with a less than adequate response by police. Sometimes the police arrive after considerable time has elapsed, or not at all. Once on the scene, they often treat the situation as "just a domestic," with preconceived notions as to why domestic violence occurs along with a belief that it is a "social work" problem, rather than a criminal matter requiring police action. (Ironically, this attitude exists despite the fact that over 40 percent of all the murders of women<sup>1</sup> and up to 40 percent of all police injuries<sup>2</sup> result from domestic violence.)

These attitudes on the part of the officers might be expressed by their joking with the abuser, siding with him,

blaming the woman, or frightening her about the possible consequences of her signing a complaint and having the abuser arrested. For example, they might say, "he'll go to jail and who'll support you and the kids then?". Thus, the police often leave with the woman feeling more hopeless, and with the abuser quite possibly even angrier about her having called the police and ready to inflict another beating.

Even when police attitudes are sympathetic to abused women, many officers are genuinely confused as to their responsibilities in domestic violence cases and unsure of the proper courses of action. Police officers may not know what community resources are available to the woman or the family. In the past, when the abuser violated the terms of a civil injunction the police did not have the power to arrest for that violation. Officers also feared liability for charges of false arrest.

The Illinois Domestic Violence Act has now clarified and expanded police responsibilities and powers in an effort to avoid the problems encountered in the past. (Details concerning law enforcement responsibilities under the Act are covered in Chapter IV.) The Act clearly states that domestic violence is a crime, and that they are to protect and assist the victim. The police also now have protection from certain civil liabilities when "acting in good faith" in rendering emergency assistance or otherwise enforcing the Act.

When an abused woman perseveres and brings an action in criminal court, she often finds a confusing, indifferent, or blaming experience there as well. In addition to difficulties in initiating the criminal court process because of unsympathetic warrant clerks (in the City of Chicago), or state's attorneys, the victim is often faced with numerous delays and continuances. She receives no real protection during this lengthy process, and many issues vital to the case (such as the pattern, severity, and escalating nature of abuse) are not necessarily considered.

Other examples of system-barriers include the fact that the abuser often is only charged with disorderly conduct, or issued a peace bond (an unrecorded court order "to keep the peace"), a remedy which is virtually ineffective. Judges sometimes tell a woman that she has no business in criminal court and should seek a divorce in civil court. Or the judge may treat both the victim and the abuser as offenders, telling the couple to "kiss and make up" or advising the woman to try to be a better wife. Before the passage of the IDVA, in the best of circumstances, a judge might have strongly admonished the abuser not to repeat the violence or placed him on social service supervision. Still, there was little legal protection afforded to the abused woman, and the procedures for the enforcement of court orders were lengthy and weak.

In civil or domestic relations court, the story was similar before the IDVA. The woman's case might be turned down and referred to criminal court. Another problem was that the provisions allowing the judge to issue a vacate order under the old Injunction Act were vague and left many persons unprotected. Judges, most of whom were extremely reluctant to order a man from his home, had no standards to indicate when they should grant such an order. Although a judge in domestic relations court could "recommend" counseling, sanctions for failure to attend or noncompliance with other court orders were again complicated and lengthy. In reality, the abused woman still had little or no protection.

Now the Illinois Domestic Violence Act gives the woman easier access to both criminal and civil courts. With the Act there should be less running from court to court in many cases. She should be able to get an "Order of Protection" - a written court order - at several points during either a criminal or civil case, and emergency orders also should be easier to obtain when needed. The Act gives judges clearer standards for judicial decision making, and improves enforcement capabilities. (See Chapters V, VI, and VII for the specific responsibilities of state's attorneys, judges, and private attorneys.)

Still, advocates and abused women may find many vestiges of the old practices described above in police departments and courtrooms in some communities. (See Section D in Chapters IV, V, VI, and Section G in Chapter VII.) The passage of the IDVA has not resulted in the solution of all the old problems within the legal system. However, it has provided better remedies and a clearer process to obtain protection for victims of domestic violence. It has also given advocates a tool with which to work.

## B. THE ADVOCATE'S ROLE

The advocate is a very important person in the abused woman's life. The advocate may be one of the first people who really listens to the woman and believes her. This experience alone may be invaluable to the woman. It is important to remember that the abused woman is a person in crisis and can be quite vulnerable. Therefore, the advocate must approach this job with the utmost care and responsibility.

Overall, the role of the advocate is to provide moral support and information about resources, rules, and "the way things work." When advocates do interact with others such as police,

attorneys, and judges, they should provide an assertive role model for the woman. Advocates can build the woman's confidence by encouraging her to exercise her right to ask questions and demand services.

Finally, a good guideline for the advocate to use in deciding what to do or not to do is to ask, "Is this something the woman can do for herself with information and support? Or is it something another shelter resident or support group member can do with her?" If the answer to both is no, it probably means that the advocate should do it with (not for) her.<sup>3</sup>

### C. CLARIFYING OPTIONS AND OUTCOMES

Keeping in mind that the advocate's proper role is more that of a facilitator than of a rescuer, there are many stages at which an advocate can assist an abused woman. The following section reviews in chronological sequence the problems and decisions facing the abused woman. The advocate should clarify options and review their pros and cons with the woman each step of the way.

#### 1. Safety

When an advocate first comes into contact with an abused woman she should inquire about the woman's immediate safety. The advocate should find out if the woman is presently in danger (i.e., whether the abuser is still present, whether he is likely to return, etc.). If there is a gun in the home, the advocate and victim should discuss ways to dispose of it (such as turning it in to the police, not to the shelter or agency).

#### 2. Medical Treatment

The advocate should also inquire about the woman's physical condition. If she is badly injured or in pain, she should be encouraged to go to the emergency room of a hospital. Once there, she should make sure she gets the names of the doctors and nurses treating her and copies of any medical reports. These may be helpful if she decides to go to court, as would pictures of her injuries taken at the point at which they appear the worst.

#### 3. Shelter

Another immediate question to discuss in the first contact is whether the woman needs a safe place to stay. Temporary shelter is often needed even if the abuser has been arrested, since abusers who can make bail can be free again in a matter of hours or a day. Likewise, even in cases in which an Order of

Protection will require the abuser to vacate the home, the woman will need shelter until the Order is secured and the abuser complies with it. The advocate should discuss with the woman other places she and her children could stay temporarily - for example with a relative or friend.

If no relative or friend can shelter the woman, if she feels too uncomfortable to ask them to do so, or if she might be endangering those who have offered to assist her, the advocate should discuss the possibility of staying in a domestic violence shelter, safe home, or other temporary space. The advocate might inquire at the local domestic violence program(s) whether there is space available, and should be aware of admission requirements. But after that, if it is at all possible, the woman should call the program herself to make arrangements to come in. The advocate should prepare the woman for questions she may be asked by the program staff over the phone (such as the nature and severity of the abuse, the number and ages of her children, and other places she may have to go).

#### 4. Utilizing the Police and the Courts

Once the preliminary questions of immediate safety, medical care, and shelter are resolved, it is time to review the woman's options for exercising her rights under the Illinois Domestic Violence Act. (Advocates should note that while it is against the law for a lay person to give legal advice, what actually constitutes "unauthorized practice of law" is unclear. See Appendix C.) The following summary outlines the steps a woman may take to protect herself from future abuse.

##### a. Calling the police.

Calling the police may be a big step for the woman to take. She may fear that when the police leave she will receive another beating, or she may not want the embarrassment. However, the police can offer her some limited protection and intervention, and they are one of the first entries into the criminal justice system. Having a record of a police intervention may help her later in either civil or criminal court.

If the woman decides to call the police she should:

- Call 911 or the emergency police number in her community;
- Tell the dispatcher that she is being beaten and whether or not there is a weapon present;
- Tell the police once they have arrived what happened, and show them any signs of the violence (bruises, cuts, broken furniture, the weapon, etc.);

- Tell the police she wants the abuser arrested if he is still present and that she wants to sign a complaint (if she does);
- Tell the police whether she has an Order of Protection and if possible show them a copy of it;
- Ask the police where she can sign a complaint later, if she does not want to sign a complaint right away;
- Ask the police to take her to a medical facility or shelter, if she needs one, or to arrange transportation for her;
- Ask the police to escort her home if she has left home and needs to go back to get a few personal belongings (clothes, medication, important papers);
- Make sure the police write out a report of the incident and ask them for the case number of the report (the "RD" number in Chicago);
- Get a victim's rights sheet from the officers. This is a written bilingual summary of her rights under the Illinois Domestic Violence Act which should include at least one social service referral (see Appendix D); and
- Get the names and badge numbers of the officers and try to record the date and time of her call to the police. (The name and badge number of the officers should be included on the victim's rights sheet mentioned above.)

b. Seeking an Order of Protection.

She may do so in one of three ways:

- 1) In criminal court, as part of a criminal complaint (for battery, assault, etc.); or
- 2) In civil court, as a part of a dissolution of marriage (divorce) or child custody/support case; or
- 3) In an independent case in civil court (not tied to a divorce or custody case).

1) Criminal Court

If a woman goes to criminal court, the state's attorney will represent her on behalf of the state and there will be no legal fees. The same remedies within an Order of Protection are available to her whether she chooses to go to civil court or

criminal court, except that in criminal court it is unlikely that she will be able to get orders for temporary custody, visitation, support, and monetary compensation for losses. This is because such questions do not fall under the jurisdiction of the criminal courts. Therefore, if these remedies are necessary and the woman wishes to file a criminal complaint she may have to go to both courts.

If a woman chooses to press criminal charges it is possible to get an Order of Protection at several points in the process:

- a) after criminal charges have been filed, but before any court hearings (emergency/pre-trial Order of Protection);
- b) during the handling of the case in court (this is also considered a pre-trial order); or
- c) as part of the disposition of the case (after a finding of guilty or after he pleads guilty).

a) Pre-Trial Orders of Protection - Before the Court Date

At the time a woman files charges against her abuser, she can request an Emergency (Ex Parte) Order of Protection to protect her until the case is heard. She must go through the state's attorney for this. (See Chapter V - Working With State's Attorneys.)

b) Pre-Trial Order of Protection: Requested at First Court Date

Most criminal cases will be continued several times. (See Chapter V - Working With State's Attorneys.) If a woman feels she will not be safe during the course of resolving a criminal charge she can request an Order of Protection at the first hearing date of the case.

c) Order of Protection as Part of Disposition

If an abuser is found innocent, any Order of Protection in effect will terminate and no further Order is available at that time. If he pleads guilty or is found guilty, however, an Order of Protection can be included as part of the sentence or disposition of the case.

Several dispositions of a finding of guilt in a criminal misdemeanor trial are:

- Jail: Very unlikely unless abuse is severe, involved the use of a weapon, and/or the abuser has a serious criminal record. If this is the only way to provide safety to the woman and demonstrate to the man that he cannot get away with the abuse, this should be requested.
- Probation: Ordered only after a conviction. The abuser must report periodically to a probation officer; counseling or any of the other remedies available in an Order of Protection can be ordered as well. The Order of Protection is then made a part of the probation. Violation of probation is a new offense that may result in a jail sentence.
- Conditional Discharge: Ordered only after a conviction. The abuser is sentenced but the sentence is postponed while he is subject to certain enumerated conditions. These conditions can include any of the remedies in an Order of Protection. If the abuser violates any of the conditions, he is then subject to sentencing. If he fulfills the conditions, he is then discharged.
- Supervision (reporting): Similar to probation, but the abuser's record can be "expunged" (wiped clean) if he does not violate the terms of the supervision for the period imposed. Since there will be no record of the charges, it can be an incentive for the abuser who does not want a criminal record. Supervision is not an alternative where there has been a felony conviction. In reporting supervision the abuser must report periodically to court or to a social worker. Participation in counseling is often required. This sentence usually is preferred to non-reporting supervision since someone will be seeing the abuser regularly, and the woman can report violations and additional abuse to this worker. Advocates should be sure the woman has the name of the abuser's social worker in case she needs to contact her/him. If the abuser complies with supervision, his criminal court record will not reflect a conviction.
- Supervision (non-reporting): Similar to above, but the abuser does not have to report to anyone during his supervision.<sup>4</sup>

Regardless which of the five criminal sentences is imposed, an Order of Protection should be requested which:

- 1) orders the abuser not to strike, harass, threaten, or interfere with the personal liberty of the woman;
- 2) requires him to attend counseling; and
- 3) provides for any other necessary remedies, including barring him from the home where this is necessary for the woman's safety.

## 2) Civil Court - With Another Action

If a woman goes to civil court she will need her own attorney, either a legal services attorney or a private attorney (unless she chooses to represent herself in court "Pro-Se". See ICADV's Pro-Se Handbook, and see Chapter VII - Working With Private Attorneys for information on obtaining an attorney).

Orders of Protection can be obtained in civil court in conjunction with other actions such as dissolution of marriage (divorce), child custody or support cases. An Order of Protection can be requested at two stages in these proceedings: pre-trial, or as part of the final order.

Pre-trial: An Order of Protection can be requested at the same time a request for a divorce or custody is filed. This Order is good until the case is decided. It can be obtained on an emergency basis and is often referred to as an Emergency (Ex Parte) Order of Protection.

Post-trial: An Order of Protection can be included as part of the final divorce decree, child custody, or support order.

## 3) Civil Court - Independent Order of Protection

If the woman chooses the third method of seeking an Order of Protection--petitioning for it as an independent action in civil court--she should recognize that it is a new legal procedure which may take time for acceptance. Seeking an Order of Protection in an independent civil action usually is best for the woman who either does not wish to press criminal charges or does need the remedies she is unlikely to receive in criminal court

(compensation for injury, support, etc.), and who is not currently filing for a divorce, separation, or custody action. She will need a private attorney unless she qualifies for legal assistance or represents herself pro se, and will have to pay filing fees, unless she qualifies for filing fee waivers.

#### 4) Choosing the Court

The choice of which court to use in seeking an Order of Protection will depend on the individual woman's needs and desires. Before a choice is made, advocates and attorneys should share with the client their knowledge of how these matters are being treated in the various courts, and in which courts they are getting the best consideration. Finally, it should be kept in mind that the Order of Protection issued in criminal court in conjunction with a conviction and sentence will be somewhat stronger than a civil order. This is because when the Order of Protection is violated, the terms of the supervision, conditional discharge, or probation are also violated, which results in stricter penalties.

If the woman would feel uncomfortable filing a criminal court charge at the outset, she probably should file in civil court. Then if the civil court's Order of Protection is violated, she can request enforcement from the civil court, or proceed to criminal court for enforcement if a "stop abuse" or "vacate" remedy was violated. In other words, she can treat the abuser more leniently at the beginning, but then "up the stakes" if he continues to abuse her.

#### 5) After the Order of Protection is Granted

Once an Order of Protection is granted by the judge, it will be filed by the Clerk of the Court. The woman should get at least one, but ideally several, certified copies of the Order. She should keep them in several safe places, so that if any are lost or stolen she will still have a copy in her possession.

Police officers must verify that an Order with either of the first two remedies is in effect before they can arrest the abuser for violating it. They can verify it by seeing the woman's certified copy. In addition, the IDVA requires the Clerk of the Court to send a copy of the Order to the County Sheriff, who must enter it into the statewide law enforcement computer system (LEADS). That way the police can also determine through their car radios that the Order is valid.

Women should be encouraged to report all violations of Orders to the police, or to the court for contempt of court, whichever is appropriate. Unenforced Orders will not provide effective protection.

Also, since judges are often reluctant to grant vacate orders, it is important to urge a woman who gets such an order to have it modified if she decides to again live with her abuser. The Order of Protection can be modified so that the prohibition against abuse, the requirement that the man attend counseling, etc. could remain in effect, but the vacate order would be stricken. Failure to seek a modification after reconciliation will probably make the court reluctant to enforce the other remedies it has granted. In addition, it may make it even more difficult for other battered women to get vacate orders in the future.

#### 5) Summary

To recap, the problems and options an advocate may need to discuss in early contacts with an abused woman are:

- Her immediate safety.
- Emergency medical care.
- Emergency shelter.
- Getting help from the police.
- Seeking an Order of Protection through civil or criminal action.

#### D. UNDERSTANDING THE ABUSED WOMAN'S RELUCTANCE TO TAKE ACTION

In working with abused women, advocates and others may come up against the woman's reluctance or resistance to take action - legal or otherwise - on her own behalf. There are many reasons for this stance. A number of them were mentioned in Chapter II; namely, the historically poor response of our social and criminal justice institutions to domestic violence. Many women have asked for help only to be told that the violence is their own fault, that it is not that serious, that it doesn't belong in the legal system, or in some cases that they are lying about it. Obviously, these victims will be reluctant to reach out again.

In addition, profiles of abused women have found that many have a tendency to form dependent relationships and have very low self-esteem. Clearly they have little or no power in their relationships. The principle of learned helplessness, a concept which psychologist Lenore E. Walker first used as a theory to explain the behavior of abused women, suggests that a person's ability and motivation to respond diminish considerably when the person frequently experiences negative situations and can do nothing to control, change, or stop them. One ultimate consequence of learned helplessness may be apparent indifference to the seriousness of the violence and the chance of death.

The cycle of learned helplessness can be stopped if an abused woman can be helped to change her expectation of failure. The advocate may need to review again and again the steps the victim can take to affect a change. Eventually, more successful experiences will give the abused woman a greater feeling of competence and help her regain control over her life.<sup>5</sup>

Fear is another common reason for reluctance to take action. The fear can take many forms and often is very realistic. The woman may fear another, perhaps more violent, beating if she takes any action. She may fear being alone, especially if she accepts her husband's contention that she is no good, cannot do anything right and cannot take care of herself. She may fear the criticism and condemnation of relatives and friends who may not believe, understand, or have any sympathy for her situation and who accuse her of breaking up her marriage, denying her children a father, or ruining his career. In certain communities where relations with the police are poor she may be condemned for bringing the police into the home when she calls for help. Often the abused woman has heard of, or has experienced, poor treatment by police, attorneys, and judges. She may fear possible embarrassment and humiliation. She may believe that if she calls the police and signs a complaint her husband will go to jail for a long time. Besides the loss of needed family income which this would mean, many women do not want their spouses severely punished. They simply want the violence to stop.

Also contributing to inaction on the woman's part is the isolation that is prevalent in families where abuse is occurring, and the taboo surrounding discussion of family matters with outsiders. Lacking communication outside of the marriage, the woman can believe abuse is a natural part of marriage, not a crime. The abuser may also try to convince her that this is his right, as he believes she is his property.

It should be remembered too, that in most cases abuse is not constant. A typical cycle has been identified. After the

abuse has occurred the man is often remorseful and quite loving. Sometimes he may even court her. These are the times she hopes for and appreciates. These times create a false security that he has changed - that things will be different. It is at this point that a woman is most likely to drop the criminal case, leave the shelter, drop out of counseling, etc. A woman may still love the abuser even though she does not like the beating. She may want the beating to end, but not the relationship.

Money is another serious issue influencing the woman's decisions. Most women who leave the relationship face financial hardship. If the woman is middle class she faces poverty, and if she is poor she faces even greater destitution. If she has few or no job skills, employment is at best a slim possibility. Transportation to and from work may be difficult to arrange. If she has children, finding good child care while she works is a problem. If she has been financially comfortable with her abuser, it is a hard choice to leave him and possibly give up a nice home and good schools for her children.

Thus the reasons keeping women in violent relationships are many. The advocate must help the woman sort through her fears and her options. The woman must realistically weigh what might happen if she takes legal action or leaves versus what might happen if she takes no action. The advocate should dispel myths such as that of the abuser going to jail (a highly unlikely possibility unless he already has a criminal record or the abuse has been extremely severe). She can also point out to the woman the likelihood that the violence will continue and even get worse if there is no intervention. She can ask about how the situation is affecting the children. The advocate should let the woman know she will be there to provide emotional support during the process and help the woman to locate and secure other supportive resources (public aid, food stamps, child care, transportation, support groups, counseling, etc.). The advocate's job is to help the woman make an informed choice. It may take several attempts before the woman actually goes through with the whole process, whether that be taking legal action, going to a shelter, seeking a divorce, or successfully negotiating a violence-free relationship. Whatever that choice may be, the most supportive thing an advocate can do is to let the woman know it is okay if she changes her mind about a decision and that if she wants to try again at a later date, she can come back for help then.

#### E. DEALING WITH YOUR EMOTIONS AND BURN-OUT

Working with abused women can be a challenging and fulfilling experience. Due to the highly complex and emotionally charged nature of the problem, the advocate's job can be

difficult. Advocates working closely with an abused woman can become frustrated and angry with the woman's ambivalence or failure to follow through with a plan that was mutually developed. At such times it is important to remember that the abused woman is going through a crisis, and she faces major life changes. Such changes are never easy to make. Leaving a relationship or taking other action after years of inaction is difficult for anyone, but particularly for someone who has been beaten and told she is worthless.

If you, the advocate, find yourself becoming frustrated and angry, it may be a good idea to take a look at whose agenda is not being followed. What are the abused woman's goals, desires, values, and concerns? What are your's? The abused woman may want the beating to end and think that if she just calls the police, signs the complaint, and her abuser receives a summons - that is enough. She may think that going away for a few days or a couple of weeks will be enough. She may want to stay in the relationship, and doing so may be right for her. At the very least, she has a right to test out her ideas.

If you are becoming very frustrated or angry, you probably are working too hard - doing too much for the abused woman. Remember, the point is to enable her to do for herself. If you keep on doing things for someone else and your expectations are not met, you will end up feeling abused.

To avoid burn-out you must set up realistic expectations and limits for yourself, and take good care of yourself. For example, take breaks and time off, while still meeting your obligations and fulfilling your responsibilities to the program. Do not over-commit yourself. Learn to say no. If you can do this, you not only will be around longer to help others, but you also will be a fine role model for women who need to learn how to take care of their own needs.

Talking to other advocates and program staff about your concerns is valuable, too. Share your feelings with others, but remember to maintain confidentiality. You may find that other advocates and staff can help you to see something which you overlooked, or something you were too close to notice. They may have good suggestions.

## CHAPTER III

### NOTES

1. Battered Women: Issues of Public Policy; A Consultation Sponsored by the United States Commission on Civil Rights, Washington, D.C., January 30-31, 1978 (Washington, D.C.: United States Commission on Civil Rights, 1978) p. 26.

2. Ibid, p.49.

3. Massachusetts Coalition of Battered Women's Service Groups, For Shelter and Beyond: An Educational Manual for Working with Women Who are Battered (Boston, Massachusetts: Massachusetts Coalition of Battered Women's Service Groups, Inc., 1981), p. 39.

4. Adapted from:  
Women's Law Project, Legal Assistance Foundation of Chicago, A Handbook for Battered Women (Chicago: unpublished, 1980), p. 10.

Legal Center for Battered Women, Advocacy with the Criminal Justice System on Behalf of Battered Women (Chicago: unpublished, 1979), pp. 11-13.

5. Lenore E. Walker, The Battered Woman (New York: Harper Colophon Books, Harper and Row, Publishers, Inc., 1979), pp. 42-54.

## CHAPTER IV: WORKING WITH THE POLICE

### A. RESPONSIBILITIES OF POLICE UNDER THE IDVA

The IDVA mandates greater police protection and assistance to victims of domestic violence. Under the IDVA, if an officer determines that a person has been abused by a family or household member, the officer must immediately take all reasonable steps to prevent further abuse. Specifically, the Act provides that law enforcement officers may arrest, without a warrant but with probable cause, a person who commits a violent crime against a family or household member, or a person who has violated either the prohibition against abuse or a vacate order in an existing Order of Protection. Whether or not an arrest is made, law enforcement officers are required:

- To arrange or provide for transportation to a medical facility for treatment of injuries;
- To arrange or provide for transportation to a nearby emergency shelter or other safe place;
- To accompany the victim to her home to remove necessary personal belongings;
- To offer the victim a "Rights Sheet" written in English and Spanish that summarizes her rights, legal options, and social services available to her and indicates the officer's name and badge number; (see Appendix D)
- To inform the victim that she may initiate criminal actions at a later date, and to explain the procedure for filing a criminal charge;
- To advise the victim of the importance of preserving evidence (e.g., torn clothing, weapons, photos of bruises); and
- To file a police report that provides information on the specifics of the incident of domestic violence, the victim's statement about abuse and previous requests for police assistance, and the outcome of the investigation.

### B. TRAINING AND NEGOTIATING

At times, the advocate may become discouraged, frustrated, and angry when working with the police around the implementation of IDVA. There will undoubtedly be some police officers reluc-

tant to meet their responsibilities under IDVA. It is essential that as an advocate you do not give up, but re-energize and persevere. Police are usually the first to intervene in an incident of domestic violence and they set the scene for the actions that may follow. Proper police response to domestic violence encourages the victim to take further action and discourages the abuser's behavior. In fact, a recent study conducted by the Police Foundation with the Minneapolis, Minnesota Police Department found that arresting men suspected of assaulting their wives or partners was a more effective method of preventing repeated acts of violence than mediation or separation of the parties. The study found that there was another incident of domestic violence within six months in just 10% of the cases where the man was arrested. The number rose to 16% where advice or mediation was used and 22% where the man was ordered out of the house for 8 hours.<sup>1</sup> Police training, advocacy, and negotiation may help to insure that the proper police response will occur.

Successful fulfillment of police responsibilities under the IDVA rests on the development of a strong working relationship between the police and the advocate. Ideally this relationship should be based on mutual support, trust, and cooperation. An initial step toward building this type of relationship is to share with police officers your experiences (good and bad) with victims of domestic violence and to listen to their's.

Developing an overall plan of action for training police in the implementation of the IDVA takes time, energy, and thoughtful consideration of the special features of the advocate's community and of the local police department. Advocates need to know the extent of domestic violence within the community, the past response of police in dealing with abused women, and the type of relationship that has existed between the police, support organizations, and advocates concerned with domestic violence. Armed with this information, advocates can work with the police administration and with individual police officers to fully utilize the IDVA for the protection of domestic violence victims.

Advocates may want to consider establishing a liaison mechanism with the police to offer them consultation regarding appropriate steps to be taken at the scene of an attack, and social service agencies to which police may refer abused women. In turn, this mechanism would provide advocates with access to police, giving them a channel for alerting police to serious situations that require immediate response, frequent patrolling, and possible follow-up.

To encourage police commitment to carrying out their responsibilities under the IDVA, advocates should educate police about the nature and extent of domestic violence; the cycles of domestic violence; the parties involved; and the impact of domestic violence on the family. After this framework is set, advocates can then detail police responsibilities under the IDVA, including appropriate actions to be taken when responding to domestic disturbance calls. Training and materials are available from ICADV and local domestic violence programs.

Advocates should understand and be sensitive to the frustrations, fears, stresses, and myths that police may carry with them regarding domestic violence. For instance, many criminal justice officials are frustrated by the fact that women often do not follow through with criminal prosecution or other action. It is helpful to acknowledge that this is a problem and to explain the many reasons battered women have for dropping charges. It should be noted that women who have the support of advocates are often far more likely to follow through. Advocates should also recognize and discuss the fact that police are often the secondary victims of domestic violence. Nationally 40 percent of all serious police injuries and 20 percent of all police deaths occur in conjunction with "domestic dispute" cases.<sup>2</sup> However, it should be stressed that this category includes non-spousal violence such as between any family members and acquaintances.

Advocates also should emphasize to police the probable benefits to them of the successful implementation of the IDVA. These include a reduction in repeat calls for police assistance, increased satisfaction with the outcome of police calls, increased officer safety, and homicide prevention.

### C. INDIVIDUAL ADVOCACY

In addition to working with the police directly, advocates can enable abused women to deal more effectively with the police by providing them with the appropriate encouragement and information. Police are not always sensitive to abused women and may not give them the full protection and assistance which the IDVA allows unless women demand it. Thus one important role of the advocate is to educate the abused women to recognize that she has specific rights which are protected under the IDVA, and that she needs to ask questions and demand services.

The abused woman needs to know that under the IDVA she is entitled:

- To ask police to remain on the scene for a reasonable period of time if there is potential danger;
- To request that the police drive her to the nearest hospital or emergency shelter;
- To request that the police return with her to her home to pick up her personal belongings;
- To sign a complaint to seek the arrest of the abuser, whether or not he is at the scene when police arrive;
- To receive written and verbal communication from police regarding her legal rights under IDVA and available social services;
- To be given the police report number (in Chicago, number is referred to as R.D. number) under which this incident of abuse will be filed, and the badge numbers and names of the police officers (these should be on the victim's rights sheet); and
- To be notified by the arresting police officer or given the phone number to call to find out the time and location of the bond hearing, if an arrest has been made.

When the police respond to a domestic violence call, the victim should tell them:

- The time, circumstances, and location of the incident of abuse;
- Any prior incidents of abuse, and whether or not there is an existing Order of Protection against the abuser;
- Whether or not a weapon was used, and if so, what it was;
- The type and severity of the abuse (e.g., slapping, shoving, etc.);
- Any threats that were made by the abuser, including those regarding her calling the police; and
- How many times she has called for police assistance in the past.

#### D. COMMON PROBLEMS/GOOD RESPONSES

The past responses of the police in dealing with victims of domestic violence have been varied. Passage of the IDVA and Orders of Protection have to some extent improved and standardized police protection and assistance offered to abused women, but the new law is not a panacea. Therefore, abused women and advocates can expect to continue to encounter some problems with the police.

Common problems concerning police response to domestic violence calls that have been reported are that some police officers:

- Did not arrest the abuser, especially when he had left the scene of the attack;
- Did not advise women of their rights under the IDVA (for instance, failing to explain the Order of Protection);
- Did not distribute the victim rights sheet detailing legal rights and available social service resources;
- Did not offer assistance and protection to the victim (such as transportation to a shelter or hospital);
- Did not file a police report concerning the incident of abuse; and
- Did not answer calls as quickly as they should when they heard it was a domestic violence call.

The most effective method in dealing with such police shortcomings is to educate both the victim and the police as to the rights of victims of domestic violence as mandated under the IDVA. In addition, in the past some police have claimed they were hesitant to arrest abusers for fear of being accused of bringing false charges. Police should be assured that they cannot be sued for "good faith" enforcement of the IDVA. It also helps to point out that where the IDVA has been fairly well implemented, many police officers report that it makes their jobs easier.

If a victim feels she is not receiving appropriate police assistance and protection, she should write down the police officer's badge number and name and file a complaint with the appropriate organizations (See Section E).

When advocates and victims do encounter effective and appropriate police action, this, too, should be reported to police administration as well as advocacy groups. Such thank-you's and positive feedback can do much to encourage more good police work in the future.

#### E. MONITORING

There is no guarantee that every police officer will fulfill his or her responsibilities under the IDVA. Advocates should monitor the role of the police and hold the police department accountable for the actions of their officers. Advocates should work to see that the police department sets policies describing standards of expected behavior in domestic violence cases, and imposes sanctions against police officers who fail to meet their responsibilities under the IDVA.

Complaints regarding the performance of police officers when answering domestic violence calls should be filed with the local police department, as well as with one of the following organizations that may be interested in monitoring police response: the local legal assistance office, victim assistance programs, crime alert programs (e.g., Citizen Crime Alert in Chicago - 312/663-5392 - takes calls regarding improper police response to the IDVA), and the Illinois Coalition Against Domestic Violence (ICADV). Police complaint forms can be found in Appendix F and are also available from the Legal Assistance Foundation of Chicago and the Illinois Coalition Against Domestic Violence.

A recommended model for monitoring police assistance and protection is to assign advocates to specific police districts or departments. Each advocate could collect data regarding domestic violence incidents, reports, and complaints filed against the police by the victims, and prepare monthly reports for the police and other relevant organizations. Reports would include a summary evaluation of the quality of police assistance to the victims for each particular police district or department. Problem areas identified in reports would be reviewed with the police.

It is important for the advocate to avoid setting up an adversarial relationship with an assigned police district or department. The advocate must work cooperatively with police officers and administrators to improve police response to abused women.

## CHAPTER IV

### NOTES

1. Phillip M. Boffey, "Domestic Violence: Study Favors Arrest," New York Times, 5 April 1983, p. 17.

2. James Bannon, "Law Enforcement Problems with Intra-Family Violence," presented to the American Bar Association, 1974, and FBI Uniform Crime Reports, 1974.

## CHAPTER V: WORKING WITH STATE'S ATTORNEYS

### A. RESPONSIBILITIES OF THE STATE'S ATTORNEY UNDER THE IDVA

While state's attorneys do not have any special mandated responsibilities under the IDVA, the Act has expanded the orders and remedies a state's attorney may seek in court. In addition, the provisions of the Act carry many implications regarding the state's attorney's responsibilities.

The state's attorney is responsible for prosecuting alleged crimes against individuals and society. Decisions as to whether to prosecute alleged crimes have always been and still are at the state's attorney's discretion. The Illinois Domestic Violence Act clearly states that domestic violence is a serious crime, thus indicating to state's attorneys that despite the relationship of the parties, it is a criminal justice matter that is appropriate for prosecution. The Act implies that state's attorneys should consider the history, frequency, severity, pattern, and consequences of abuse in making their determination whether to prosecute in a given case, and which remedies to pursue. State's attorneys should not reject a case solely on the basis that the woman is already in a divorce proceeding.

Before the state's attorney may proceed on a case, either an arrest must have been made or the woman must have signed a complaint. Although it is possible for the state's attorney to press charges based on the evidence without the victim signing a complaint, and although this practice is extremely effective where it has been used in other states in domestic violence cases, it is not widely practiced in Illinois.

State's attorneys are responsible for seeing that an appropriate charge is filed in cases of domestic violence. If the police have arrested the abuser on a disorderly conduct charge, or the warrant clerk (in Chicago) has listed the charge as disorderly conduct, rather than assault or battery, the state's attorney should upgrade the charge to accurately reflect the alleged offense. If a woman has been beaten, slapped, punched, kicked, or attacked in a physical manner, the proper charge is battery. (An assault is placing a person in fear that a battery will occur). Disorderly conduct is not a proper charge in a domestic violence situation.

If the battery involves the use of a weapon or amounts to an attempted murder it should be considered a felony. Also, it is not appropriate to request or order a peace bond where an injury

has been inflicted or the defendant has a prior record of violence. If a judge or one of the parties suggests a peace bond, the state's attorney should state that this is an inappropriate remedy and that the provisions of the Illinois Domestic Violence Act are more appropriate and effective.

The Illinois Domestic Violence Act indicates that timeliness is important. Therefore the state's attorney should request that continuances be short. The state's attorney can also request provisions for the woman's protection prior to settlement of the case. If there is evidence of a pattern of repeated or serious abuse and the woman needs immediate protection, the state's attorney should seek an ex parte (emergency) Order of Protection or a standard Order of Protection during the pre-trial release of the defendant (abuser), and/or after conviction as a condition of probation, conditional discharge, or supervision. The Order of Protection will last as long as the release, probation, discharge, or supervision. The state's attorney also should request an Order of Protection if another act of violence has occurred after the charges were filed - pending or during trial.

If two or more complaints against the defendant are pending in the criminal system at the same time, the state's attorney should consider the value of consolidating all the complaints into one trial. Doing so may indicate to the judge the historical pattern and severity of the abuse.

As indicated in the Illinois Domestic Violence Act: A State's Attorney's Manual,<sup>1</sup> state's attorneys should advise victims/complainants to obtain or preserve the following types of evidence for use in court:

- Photos of any visible injuries;
- Photos of broken furniture, room in disarray, etc., after the beating;
- A witness who can testify to the accuracy of the photos;
- Doctors' reports or hospital records demonstrating medical attention received;
- Torn clothing and other property damage; and
- Weapon or object used, if any, to inflict abuse.

The training manual developed for Cook County State's Attorneys<sup>2</sup> offers guidelines as to what is reasonable for state's attorneys to request. Supervision is suggested for the defendant with no prior convictions for domestic violence, no other cases pending and no supervision or Orders of Protection already in force. If the court convicts and sentences the defendant to supervision, the state's attorney should request that it be social service or reporting supervision, for at least one year duration; and that the defendant attend appropriate counseling as a condition of the supervision.

Probation is suggested in the manual if the abuse is severe or if the defendant has in the past been placed on supervision or violated an Order of Protection. If the court convicts and sentences the defendant to probation, the state's attorney should ask: 1) that the court issue an Order of Protection which provides that violation of the remedies in the Order constitutes violation of probation; 2) that the defendant be required to attend appropriate counseling for at least one year as a condition of probation; 3) that the defendant pay any hospital or medical bills incurred due to the violence; and 4) that a copy of the probation order be given to the complainant.

If the abuse was so severe that a jail sentence was imposed, work release or periodic imprisonment on weekends is encouraged when the defendant is working and the victim and minor children are dependent on his income.

Once a judge has decided a case, that decision may be appealed by the complainant and the state's attorney if they agree that an appeal is warranted.

Finally, violation of either of two provisions of an Order of Protection - the order to refrain from striking, threatening, harassing, or interfering with the personal liberty of the victim, or the provision granting exclusive occupancy of the residence to the victim, - may be prosecuted as a Class A misdemeanor. If the victim chooses to seek criminal prosecution for either of these violations, the state's attorney can prosecute for the assault and battery, or for violation of an Order of Protection, or both. Each violent act committed before trial in violation of the Order should be charged separately.

#### B. TRAINING AND NEGOTIATING

The previous section detailed the responsibilities and recommended actions for state's attorneys under the IDVA. As noted previously, full implementation and compliance is a long

process that requires education and attitudinal change. Not all state's attorneys may be familiar with, or in agreement with, the Act. They may be reluctant to prosecute cases, believing that the woman will drop the charges. What should be stressed to state's attorneys is that initial studies have found that the prosecutor's attitudes and treatment of the woman have a great impact on whether or not she follows through with the case. State's attorneys may be more successful if they demonstrate their seriousness to the woman by insuring the charges are appropriate; spending enough time in interviews with the victims to get full information and establish trust; obtaining an Order of Protection for her while the trial is pending; recognizing the woman's likely fears concerning prosecution of the abuser; and establishing what it is she wants to see happen and seeing that they are pursuing the same goals. The prosecutor also should stay in close contact with, and provide emotional support to, the woman to offset pressures on her to drop the case.<sup>3</sup>

Advocates have a crucial role in this area. By meeting with the state's attorney to discuss the Act, advocates can help insure implementation of the IDVA. Meetings should include at least two or more advocates and be used to begin educating state's attorneys about domestic violence and the characteristics, fears, and concerns of abused women regarding criminal prosecution. Depending on the attitudes and needs of the particular state's attorney's office, advocates might offer to conduct in-service training for state's attorney staff members concerning the Act and domestic violence in general.

If protocols or policies regarding prosecution of domestic violence cases have not yet been developed, advocacy groups may want to form a coalition and then meet with the state's attorney to discuss developing appropriate procedures. It would be ideal for the state's attorney staff to accept advance input from advocacy groups, or lacking that, to allow them to review and comment on procedures as they are being formulated.

Finally, groups intending to initiate a court advocacy program can start out on the right foot by first meeting with representatives of the state's attorney's office to inform them of their intentions and to elicit their cooperation.

## C. INDIVIDUAL ADVOCACY

### 1. Preparing the Case

A woman whose abuser has not been arrested and who did not sign a complaint when police came to offer assistance will need to meet with the state's attorney to sign a complaint (or with the warrant clerk in Chicago). The advocate can help prepare her

for this meeting by reviewing exactly what it is the state's attorney or warrant clerk will need to know, such as:<sup>4</sup>

- Woman's name;
- Abuser's name (and birth date for the Order of Protection);
- Relationship of abuser to woman;
- Length of relationship (years/months);
- Number of children and whose children they are;
- Whether a divorce is pending;
- Date and time of incident of abuse;
- Brief description of abuse inflicted, including weapons used and threats made, if any;
- Whether hospitalization was required (If so, where? What treatment was received? Bring records if available);
- Whether there is any evidence (If so, what?);
- Whether there were any witnesses (If so, who? If possible, have the witnesses come to court);
- Whether the police were called (If so, what did they do?); and
- Whether the children were involved.

Any prior history of abuse also should be reviewed with the state's attorney, including:

- Frequency of abuse;
- Description of severe incidents, including dates, police intervention, children's involvement;
- Previous court dates and disposition;
- Abuser's prior record; and
- Complainant's desired disposition of the case.

In going over this information with the woman to help her prepare her case, the advocate should clarify that this information will be needed to substantiate her case. When there are no

witnesses or evidence, as is often the case, it becomes a question of her word against his. A history of prior incidents of abuse, prior calls to the police, and prior medical treatment, can be used to establish a continuing pattern of abuse against her.

## 2. Going to Court

The woman and her advocate (or the woman and a friend, if an advocate is not able to be in court with the woman) should meet at court one half hour before the scheduled time of the hearing. If possible, they should try to speak to the state's attorney before court begins. If the woman and advocate have not met with the state's attorney before, as is often the case, they should introduce themselves and offer a capsulized version of the information provided when the complaint was signed (see above). Priority items for the state's attorney to know are:

- The seriousness of the last beating;
- The history of the abuse;
- The woman's intent to prosecute;
- The relationship of the parties (whether they are married, separated, or divorced);
- Whether the woman has any witnesses in court;
- Whether any photos, hospital records, or other evidence exists (show these);
- The woman's desired disposition and why she thinks it will deter the abuse; and
- If the man is being inappropriately charged (e.g., disorderly conduct when he abused her) tell the state's attorney the woman would like to sign a complaint for battery. Amending the charges will mean the judge will grant a continuance to the defendant. If an Order of Protection is needed in the meantime, request it.

Remember, it is preferred that the woman speak for herself. The advocate is there for support and to offer help if it is needed. The advocate should always make clear that she is not the woman's attorney (see Appendix C regarding unauthorized practice of law). After talking with the state's attorney the advocate and complainant should try to sit as close to the front of the court as possible, as they will hear better.

The clerk will call the case by calling out the defendant's (abuser's) name. Usually the complainant's (woman's) last name also will be called. Listen carefully. Sometimes it is hard to catch the names. The advocate and complainant should go up to the bench and the advocate should identify herself as such and state the name of her organization. Then, if they have not yet been able to talk to the state's attorney, they should request that the "case be passed" (called a short time later) so that they may talk briefly first.

### 3. Continuances

Prior to the judge's review of the facts of the case, it is highly likely that the case will be continued (postponed to a later date) so the defendant can get an attorney, especially if this is the first time the case has come before the judge. In fact, it may be continued several times. In the event of a continuance the woman and/or advocate may want to ask the state's attorney to:

- Ask the judge to mark the case final for the next time;
- Ask that the continuance not be longer than two weeks; and/or
- Ask that an Order of Protection be issued to provide protection for the woman and her children pending trial.

### 4. Presenting the Case

When the abuser is not requesting a continuance, and either his attorney is present or he is waiving his right to an attorney, the judge may ask for the facts of the case. Again, if the woman and advocate have not yet had a chance to talk with the state's attorney they should request time to do so. The woman should be prepared to describe the last beating in three or four succinct sentences. The woman or advocate also should suggest the disposition she thinks appropriate. If either the woman or state's attorney omits an important detail, the advocate should give the information.

Within the informal hearing process, there are several alternative pleadings from which the defendant must choose at the outset of the hearing.

a. Guilty plea. The judge will ask the defendant how he pleads. If he pleads guilty the judge will then ask the state's attorney if the defendant has an "aggravated record" or prior convictions. This is the woman's opportunity (or advocate's if necessary) to tell the state's attorney and judge about prior incidents of battery, police calls, court appearances, the seriousness of the last beating, and the remedy or sentence the woman would like the court to impose.

b. Not guilty plea. If the defendant pleads not guilty, and does not want a continuance or a jury trial, the trial will proceed. The clerk will swear in the defendant, the complainant, and any other witnesses. The state's attorney will first question the parties about the last beating (this process is called direct examination). The defendant's attorney can then question the same persons on the same issue as the state's attorney (this is cross-examination). The defense attorney may then address questions on new issues and the state's attorney can then cross-examine on these issues. After this the judge makes a decision on whether to convict and then on how to sentence.

c. Plea bargaining. Prior to going before the judge, the defendant may decide to plead guilty based on the state's attorney having confronted him and his attorney with the facts and available evidence. The state's attorney will bargain for and agree upon the sentence or remedy before going in front of the judge. The information the woman and advocate provided the state's attorney should be used to obtain a plea-bargain sentence acceptable to the woman (for example, social service supervision with an Order of Protection stipulating that he participate in counseling).<sup>5</sup>

## 5. After the Hearing

Once the case is decided, the woman should request and receive a copy of any Order of Protection issued. She should also get the name of the court social worker in charge of the abuser's supervision, or his probation officer, so she can report any violations. She should make several copies of the Order of Protection and put them away in safe places in case her abuser discovers and destroys one or more or they are otherwise lost or destroyed. The woman should also be informed that if the abuser violates the Order of Protection she should call the police. If a violation occurs very soon after she has been to court, or if the Order of Protection is an emergency order, the police may not yet have a record of it and she should show them a copy. If an Order of Protection issued during a continuance is

violated she should report it to the state's attorney (warrant clerk in Chicago). She can then sign another complaint for this incident of abuse, and action can be taken on it, or the information can be considered during the trial.

If the woman feels that a remedy she should have received was denied by the judge, she can discuss the possibility of appeal with the state's attorney.

#### D. COMMON PROBLEMS/GOOD RESPONSES

One possible problem was noted in the preceding section - that is, the difficulty in some areas in getting to talk to the state's attorney before the case is called. This is most likely to occur in high volume areas. Since it is appropriate for an attorney to confer with the client before or during the case, the woman, or advocate, should be assertive but friendly in trying to see that this occurs before court opens. If this is not possible, remember to request either a "pass" when the case is called or time to confer with the state's attorney while the case is in progress.

At all times it is important to be polite but assertive. The state's attorney should not be approached as an adversary. Try to create the attitude that you are all on the same team together, working for the victim.

This attitude may be helpful in countering another problem - that of the state's attorney not wanting an advocate present. Again, a polite approach is best. As an advocate, you do not want to convey the feeling that you are trying to do the attorney's job, but that you are there at the woman's request to assist her and the state's attorney. Of course, it is best if your organization has previously discussed advocacy activities with the state's attorney and secured the staff's support.

Other problems might be that the state's attorney is leaving out important information, allowing too long of a continuance, or not requesting the remedy or sentence desired by the woman. If so, the woman or advocate should quietly mention it to the state's attorney. (Do not address the judge unless the judge has spoken to you, or addressed questions to you, directly.) If the concern is about the sentence or remedy, discuss what is desired and, if the state's attorney is against it, find out why. It may be that it is not appropriate for the charge or what happened, or the attorney may believe there is no way the judge will grant it and prefers to go for something attainable.

Because state's attorneys and judges work together daily the state's attorney may be in a difficult position when requesting a sentence or remedy s/he believes the judge will deny. S/he may be concerned about alienating or angering the judge, or being held in contempt of court. Evaluate the state's attorney's reasoning, but do not allow the woman to be shortchanged. An important component of the IDVA is that judges must put their decisions in writing with reasons why a requested remedy is granted or denied. This, then, can serve as a basis for an appeal if the judge's decision is unsatisfactory to the woman. However, if the state's attorney decides not to request a certain remedy because s/he "knows" the judge will not grant it this whole process is circumvented. Then there is no true record of what judges are granting or denying.

Therefore, the advocate and the woman should firmly tell the state's attorney the remedy and sentence desired and why. They should strongly encourage the state's attorney to request the remedy/sentence at least once per client, and explain to the state's attorney, if s/he is saying the judge never gives that remedy, that they would like it for the record. The fact that the judge just denied it for the last client is not a good enough reason not to ask for this client. However, the state's attorney should not be expected to ask for the same remedy more than once for the same client and risk being held in contempt of court. If all else fails, try to negotiate something each party can live with.

If the state's attorney is totally ignoring the woman's concerns, then you or the woman may wish to try to speak directly to the judge, especially if some important fact has been left out. Some judges will listen. You risk angering the judge and/or state's attorney, but if the woman's needs are not being met, you may have little to lose.

#### E. MONITORING

Advocates in court, or other court watchers, should carefully observe how state's attorneys are handling the cases. Observations should be documented by recording them on a form with the state's attorney's name, court, date, names of defendants, complainant, and what occurred. State's attorneys doing a good job should receive letters of commendation, with copies to their supervisors or the chief state's attorney in the county. Positive feedback is important in assuring continued good service and cooperation.

Complaints about particular state's attorneys should be made first to the assistant state's attorney's supervisor. To find out who this is, call the state's attorney's office. If no satisfaction is received, complaints should go to the chief state's attorney in the county.<sup>6</sup> ICADV is also interested in receiving and documenting any complaints or compliments about state's attorneys' compliance with IDVA. (Please see Appendix F for forms.)

## CHAPTER V

### NOTES

1. Julie E. Hamos, Illinois Domestic Violence Act: A State's Attorney's Manual (Springfield, Illinois: Illinois Coalition Against Domestic Violence, 1982), p. 15.

2. Office of the State's Attorney, Cook County, Illinois, Response to Domestic Violence: State's Attorney's Manual for Prosecution of Domestic Violence Cases (Chicago: unpublished, 1982), p. 15.

3. "Prosecutors Discourage Battered Woman from Dropping Charges," Response to Violence in the Family, Vol. 3, No. 4, December, 1979, pp. 1-2.

4. Adapted from: Legal Center for Battered Women, Advocacy with the Criminal Justice System on Behalf of Battered Women, p. 15.

5. Ibid.

6. In Cook County, address complaints to: Julie Hamos, Cook County Assistant State's Attorney, Rape and Domestic Violence Unit, Office of Cook County State's Attorney, Criminal Courts Building, 26th and California, Chicago, Illinois 60608 (Phone: 312/890-2809).

## CHAPTER VI: WORKING WITH JUDGES AND COURT PERSONNEL

### A. RESPONSIBILITIES OF JUDGES UNDER THE IDVA

Judges in both civil and criminal courts are responsible for actually issuing Orders of Protection and determining whether the specific remedies requested by attorneys should be granted. The judge is required by the IDVA to consider all relevant factors, including: the frequency, severity, pattern, and consequences of the abuser's past abuse; whether the abuser is hiding to avoid being given notice of the legal actions being taken against him; the likelihood of danger of future abuse; whether there is danger that the abuser will abuse or neglect a child or remove a child from the state; and whether hardship will be greater if a vacate order is issued granting the woman and children exclusive rights to their home or if the abuser is allowed to remain in his home while they seek safety elsewhere.

The judge also is required to make "findings" regarding these factors and explain the basis for the various decisions. For instance, the judge might say that an Order of Protection is being granted because of the abuser's history of increasing violence. When denying a requested remedy, the judge is specifically required to state in writing the reasons for its denial. Specifically, in a case where the judge refuses a request to bar the abuser from the home (a vacate order), the judge's written record of the case must state how a vacate order would cause greater hardship for the abuser than its denial would cause the rest of the family or household.

All of the judge's findings are to be recorded in the court record as well as being reported to both parties. This IDVA requirement is important in that it should force a closer evaluation of the facts by judges and results in more carefully considered decisions. In addition, it mandates a written record of all decisions, so that if a decision is made inappropriately, the case can be appealed.

The IDVA also grants judges the authority to issue ex parte Orders of Protection (emergency Orders which can take effect without prior notice to the abuser). This can be done when either of two situations exists:

- If the person requesting the Order has "diligently" tried but has been unable to give the abuser notice of the request for an Order of Protection (this requires a legal process, not just someone calling or writing the abuser); or

- If giving the abuser notice would be likely to cause the specific irreparable injury the Order is meant to prevent (e.g., if giving him notice would cause him to abuse her, or if an Order of Protection forbidding him to remove the children from the state would cause him to snatch the children).

Where an Order of Protection has been violated, it is the judge's responsibility to act to punish the offender. When an abuser who knows that an Order of Protection exists violates either the provision ordering him to refrain from striking, beating, harassing, or interfering with the persons protected, or the provision granting exclusive possession of the home to the victim, a criminal court judge can find the abuser guilty of the new Class A misdemeanor, "violation of an Order of Protection." (A Class A misdemeanor is punishable by a fine of up to \$1,000 or up to a year in jail.) If the violation of the Order of Protection is a battery and charges are filed, the judge also decides on this misdemeanor.

Where any section of an Order of Protection is violated, a civil or criminal court judge can enforce the Order through contempt of court proceedings. This can result in a jail sentence or fine. In most contempt of court proceedings the violator is given notice that he must appear before the judge to answer for violation of the Order. If the judge finds, however, that notifying the abuser of an impending contempt of court proceeding will cause him to flee, or to inflict violence on the persons protected, the judge can order the abuser arrested without notice and brought to court.

The judge also is responsible for enforcing an Order of Protection where it has been granted as a condition of probation, conditional discharge, or supervision following the abuser's criminal conviction. Violation of probation, conditional discharge, or supervision (including the violation of the Order of Protection where it is part of the sentence) is a criminal offense and can be punished by jail or a fine. However, a jail sentence is unlikely in most cases. (See Chapter III, Section C.4.b.1 for definitions of the above dispositions.)

Probation and court social services departments share responsibility with judges for enforcing Orders of Protection when the Orders are a condition of supervision, probation, or conditional discharge. When they have knowledge of a violation they must report it to the judge and recommend that probation or

supervision be revoked. If counseling has been mandated, court personnel are responsible for providing it directly or arranging for its provision.

In addition to granting and enforcing Orders of Protection, judges and court personnel are responsible for developing and implementing procedures and forms relating to the Illinois Domestic Violence Act.

#### B. TRAINING AND NEGOTIATING

There may be difficulties in trying to work with judges. Because of their position, judges may be reluctant to accept "training," especially from advocates who are not attorneys. In addition they are generally busy and do not have many formal educational opportunities to learn about the Act the way attorneys and police often do.

However, there are some local and informal judges' associations which advocates may be able to use as forums for discussing the Act. To find out what groups exist and who leads them, check with your local bar association. It may be helpful also to involve attorneys familiar with the Act in meetings with judges, to help address some of the legal issues which are of concern to judges.

In some cases, individual judges may be willing to meet with advocates to discuss both the Act and the advocate's role in court. Many judges are elected and thus may be especially sensitive to public opinion. Others simply feel it is their duty to be responsive to public needs.

Advocates should expect some judges to have strong feelings regarding domestic violence cases. For example, some feel both parties should be reprimanded about future abuse because a judge cannot assume before trial that one party or the other is guilty. An advocate's explanation of how women feel during the court process and the problems they encounter can have an impact on the judge's behavior and attitudes. Advocates should never assume judges are unapproachable.

#### C. INDIVIDUAL ADVOCACY

Advocacy with a judge on behalf of an individual woman generally requires working as a team with the woman's attorney, since it is the attorney's role to deal directly with judges. An

advocate's presence is important, however, since a judge may treat more seriously a case in which an outside person or agency has taken an interest. In addition, an important part of an advocate's role is to gather information on specific judges' attitudes and treatment of abused women.

For advocates in either criminal or civil court, it is always important to be respectful, but persistent. The following guidelines provide good advice and perspective on dealing with judges and court personnel:<sup>1</sup>

Be friendly and polite; dress well. It can get the woman's case called at a reasonable time, make the interview with the clerk less painful, and gain respect for you.

While it is important to act friendly and respectful to court personnel, it is also important to strike a balance between getting along with them and advocating for the woman. Don't be afraid to point out a mistake or misinformation by the clerk; don't hesitate to demand to see the judge if the clerk is refusing to deal with you. Like police, clerks will sometimes change their behavior toward you when you ask for their name or to see their superior. Gauge your behavior to theirs. When friendly persuasion doesn't work, don't be afraid to demand what the woman is entitled to by law or to express dissatisfaction.

When you get before the judge, explain who you are and that you are there to give the woman support. If the judge excludes you from the process there is nothing you can do; so if you are not sure what will happen till you actually speak to the judge, warn the woman that she may have to face the judge on her own. Judges are not necessarily any more sensitive or cooperative than clerks, but you and the woman should be aware that they have the power to hold you in contempt of court depending on your behavior.

Finally, remember that your control of the situation is limited; there are some judges and clerks who will never be reformed. We cannot expect to change a whole system of its most invested members in a short time. Do as much as you can to help the woman through the process, but do not be afraid to suggest (remind her of) other options open to her.

The court system should be dealt with as positively as possible since criminal court prosecution is often the only effective action a woman can take to stop or reduce the violence in her life. A study by the National Institute of Justice found that, among victims seeking help from the criminal courts following an assault by someone they knew, a majority found the court system to be effective in stopping or reducing violence.<sup>2</sup>

The study also suggested that "improvements such as treating victims with greater respect, eliminating long waiting periods, and greater consideration on the part of court officials for victims' feelings could help to increase victim satisfaction with the legal process." These are the aspects of court process upon which advocates can have the greatest impact. Judges will often grant requests for shorter continuances and judicial reprimands or warnings of abusers when proposed by advocates or attorneys. Also, an advocate's presence in court and concern regarding the woman's safety can help to change the attitude of judges and clerks toward the woman.

The Institute of Justice study found judges to be critical in deterring future violence in two ways:

First, judicial warnings and/or lectures to defendants concerning the inappropriateness and seriousness of their violent behavior apparently improved the future conduct of some defendants. Second, judges occasionally counseled victims by telling them that they should not tolerate violent abuse and/or suggesting counseling programs.<sup>3</sup>

It appeared that the judges' involvement was especially important for women and for defendants appearing in court for the first time. Though it is unrealistic to expect lecturing and referral in every battery case (especially in more crowded courtrooms), it is clear that working to improve judges' attitudes and responses is vital to enhancing the effectiveness of the court system.

#### D. COMMON PROBLEMS/GOOD RESPONSES

When advocating on behalf of an individual woman, many problems relating to judges can best be resolved by dealing with the state's attorney or private attorney representing the woman. Chapters V and VII detail the methods for enlisting the attorney's help on behalf of the client.

In dealing directly with judges' associations and groups of judges, several issues have arisen regarding the IDVA.

## 1. Possession of the Home

A recurring problem under the IDVA is that judges have been refusing to grant emergency Orders of Protection giving the abused woman exclusive possession of the home. Judges seem to feel that it is too great of a hardship for the abuser or that his property rights are too important.

The only response to this argument is that the law clearly authorizes the judge to grant exclusive possession of a home where the hardship to the victim is being deprived of the safe and peaceful occupancy of the home outweighs the hardship to the man in being temporarily excluded. The judge can issue these orders without notice if diligent efforts to notify the man have failed, or if notifying him would cause him to commit the violence the Order is seeking to prevent. Note that temporarily excluding the man from his home does not affect his title to the property.

If the judge feels so strongly that excluding the abuser from the home will be a hardship on him, the judge can and should order the abuser to pay the costs incurred by the woman and children in staying elsewhere.

In some localities, judges may be using an incorrect standard for deciding whether or not to exclude the abuser from the home. Rather than weighing who will suffer a greater hardship due to exclusion from the home (Illinois Domestic Violence Act, PA 82-621, Article II, Section 208 (d)(3)) some judges are using a threshold test of extreme danger to the woman. Advocates who are working in courtrooms where this is occurring should discuss with their state's attorney the possibility of appealing these cases.

As noted in Chapter III, it is important to urge women who get vacate orders and then wish to live with their abuser again to go back to court to have that remedy stricken. The other remedies, such as the prohibition against abuse, could remain in effect. The failure of women to do this will reenforce judicial reluctance to grant vacate orders in the first place.

## 2. Double Jeopardy Questions

The fact that an Order issued in civil court is enforceable both in civil court and in criminal court may cause judges to fear a double jeopardy situation. Double jeopardy means trying a person twice for the same offense, and it is prohibited by law.

When a civil court judge issues an Order of Protection including either the remedy to stop further abuse or the remedy evicting the abuser from the home, a violation of the Order is

enforceable by the civil court in a contempt of court proceeding, or in criminal court as a Class A misdemeanor, "violation of an Order of Protection." Some judges fear that if an Order of Protection is violated, the person who is protected by the Order may seek to enforce it both in criminal court and in civil court, thereby placing the accused person in double jeopardy.

Although this is a hypothetical possibility, judges can be reassured that there is little likelihood of its ever occurring. The person with the Order would have to go through a private attorney to initiate a contempt of court proceeding at the same time that she was pressing criminal charges for the same violation. In addition, except in an emergency proceeding, the person being accused of violating an Order of Protection would receive legal notice that he was being charged with the same violation in both the civil and criminal courts. Thus, he would be able to take legal action to prevent being prosecuted in both courts. Even in an emergency proceeding, notice must eventually be given or the abuser must be brought to court before he could be found guilty of violating the Order of Protection. Again, he would be able at that time to prevent himself from being placed in double jeopardy.

#### E. MONITORING

The responses of individual judges vary as much as those of attorneys and police officers. Many judges are sympathetic to victims of domestic violence and will go out of their way to explain the legal process and the victim's options. These judges should receive positive feedback regarding the importance of their actions, either in person or in letters. Judges influence each other, and positive feedback may result in the judge making a greater effort to reach others. This could be mentioned as a suggestion in any commendation of a judge.

Unfortunately, many judges are not sympathetic or understanding. Affecting their behavior may be a long and difficult process, but it is a vital one since their actions ultimately determine what happens in many domestic violence situations.

It is important to document what attitudes judges are reflecting and what actions they are taking. Court advocates and attorneys can provide invaluable information by recording and collecting data from their own case experiences. In addition, it can be very useful to systematically monitor the court process in domestic violence cases. For instance, if it appears that one judge is causing particular problems, it may be worth the time to "court watch" for a week, or for one day a week for a

longer period of time. Court watchers should observe a number of domestic violence cases and record the number of continuances given, the length of the continuances, the response to requests from state's attorneys or advocates, the disposition of the case, the treatment and attitudes displayed toward the victim and the abused, and the time spent on domestic violence cases relative to other kinds of cases.

Almost all courtroom proceedings involving adults are open to the public, and anyone has a right to view these proceedings. Even so, as a court watcher recording the events, you may be very conspicuous, and the clerk may ask what you are doing and call you before the judge. The clerk or judge may ask for identification and an explanation of your activities.

The judge does have the power to control all behavior in the courtroom, including talking, reading, and writing. A judge who so chooses may order you not to write while court is in session. This is rare, but you should be aware that the judge has this authority and may find you in contempt of court if you refuse, even imposing a fine or jail sentence. However, the judge has no right to ask you to leave or not observe the proceedings. In most cases, once you explain what you are doing the judge will be very cooperative. In any case you should not allow yourself to be excluded.

It may be difficult to hear or understand what is going on in a crowded courtroom, so a court watcher should pick a seat as close to the front as possible. Also, it may help to observe a court session for a while before beginning to record information, as cases often are handled very fast and a kind of shorthand jargon is used. Two phrases often heard in a criminal court are "D.W.P.'d" (dropped for want of prosecution, meaning the complaining witness did not show up or does not want to follow through) and "S.O.L." (stricken on leave, which means the charges are dropped but leave is granted to refile them). Clerks and state's attorneys are usually willing to explain other specialized terms.

Information collected in court watching can be used three ways:

- To better negotiate with the specific judge regarding his or her handling of the cases; (For instance, if a problem of excessive continuances is identified, it can be very informative to the judge to know that the average domestic violence case has five continuances versus three for other batteries.)

- To inform other groups who are monitoring or rating judges (Some bar associations and legal interest groups periodically rate judges' performances. Court watching provides documentation of complaints, which makes a much stronger case against a judge. Contact the local bar association or legal services office to find out who does such ratings.); and
- To inform the media and the public (Judges, even those not elected, are subject to public opinion and pressure. If efforts at negotiation have failed, it may be effective to seek publicity regarding inappropriate judicial behavior. However, this also can be inflammatory to the judge and might cause him or her to treat victims badly, so other methods should be used first.).

Again, ICADV is interested in receiving complaints or commendations regarding judges' handling of domestic violence cases. (Please see Appendix F for forms.)

## CHAPTER VI

### NOTES

1. Excerpted from: Massachusetts Coalition of Battered Women's Service Groups, For Shelter and Beyond, p. 76.

2. "Non-Stranger Violence: The Criminal Court Response," Response to Violence in the Family, Vol. 5, No. 2, March/April, 1982, p. 1.

3. Ibid., p. 10.

## CHAPTER VII: WORKING WITH PRIVATE ATTORNEYS

### A. THE CIVIL COURT PROCESS

If a battered woman does not wish to use the criminal court process or cannot get all the assistance she needs there, she can obtain an Order of Protection through the civil court system, either as an independent action or as part of a divorce, legal separation, or custody case. She will need a private attorney to represent her (unless she represents herself) and will have to pay court filing fees. If she is unable to pay court fees, she will have to file a pauper's petition to have the fees waived.

Although it is possible for a woman to proceed in civil court without the representation of an attorney, it can be very confusing and intimidating. If you are assisting a woman who wants to proceed without an attorney and who feels confident enough to take on the system on her own, encourage her to do so, but make sure she knows what is involved. Seeking an Order of Protection "pro se" can be an educational process for both the woman and her advocate if they are willing to face the difficulties involved. (See ICADV's IDVA Pro Se Handbook for information on how to proceed).

In civil court, the attorney (or the woman if she is filing pro se) can request an Order of Protection including any or all of the remedies provided in the IDVA. In fact, the woman seeking the remedies relating to custody, property rights, support, and compensation may only be able to get them in civil court, as criminal courts are often reluctant to deal with these issues.

In civil court, as in criminal court, an Order of Protection can be requested on an emergency basis without notice to the abuser (ex parte). Orders of Protection are most commonly requested at or near the time the action for divorce or custody is filed in order to protect the woman during the lengthy process of obtaining a divorce, legal separation, or custody. Such an order typically lasts until the legal action is finalized. Orders of Protection also can be obtained as part of a final divorce decree to provide continuing protection.

If any provision of an Order of Protection obtained in civil court is violated, the woman's attorney may initiate civil contempt of court proceedings against the abuser. This could result in a jail sentence of up to six months or a fine for the abuser. As an advocate, it is your responsibility to explain to the abused woman that it is highly unlikely that the abuser will go to jail. If the provisions relating to exclusive possession of

the home or the prohibition against further abuse are violated, the woman may instead file charges against the abuser in criminal court. This may result in a harsher punishment (up to a year in jail or a \$1,000 fine), and avoids the cost of a private attorney since the state's attorney is involved.

#### B. FINDING AN ATTORNEY

If the woman decides to go to civil court for an Order of Protection she will need a private attorney unless she is handling the case pro se. If she has a very low income she may qualify for legal assistance. Public Aid recipients will qualify. To check on requirements and obtain assistance, the woman or her advocate should call the local legal assistance office. Illinois has several legal services organizations (see Appendix G).

In addition, bar associations, social service agencies, and other organizations offer some free legal service programs. Law schools also may have free or reduced-fee legal clinics that may handle battered women's cases (see Appendix G).

If the woman can afford a private attorney she should spend some time finding the attorney who can best assist her. Bar associations will make referrals to private attorneys. However, this is no guarantee that the attorney is sympathetic, inexpensive, or knowledgeable about the Illinois Domestic Violence Act. A better place to seek a referral might be from a domestic violence program in your area (see Appendix I).<sup>1</sup> Once a woman has been referred to an attorney she should find out what the attorney can do for her and what the fees will be. It is important that the attorney know and be willing to utilize the Illinois Domestic Violence Act, rather than only using civil restraining orders (especially mutual ones).

#### C. LIMITS OF THE CIVIL COURT PROCESS: WHAT AN ATTORNEY CAN AND CANNOT DO

Though the new Illinois Domestic Violence Act provides new and better remedies for victims of domestic violence it cannot guarantee these remedies will be used. The Act provides remedies an attorney can request and better standards for judicial decision making on whether to grant these remedies. However, attorneys can only request the remedies, present evidence of abuse, and provide the judge with information on the Act's standards. Attorneys cannot guarantee that the remedies will be granted or the Act's procedures followed.

It is important for women and advocates seeking legal help to understand the limits of an attorney's power. A woman should never be led to believe that the new Act will guarantee her the right to have her husband removed from the house, pay for injuries inflicted upon her, or receive any of the remedies.

What an attorney can do is collect the relevant information and evidence, know the law, and make a request for the protection and legal relief a woman needs. It is the attorney's duty to make the strongest arguments possible for the remedies requested, and to demand that the judge fulfill the law's requirements and explain the denial of any remedy. If the judge decides the evidence does not support the arguments made, or that the relief the woman is seeking is not necessary, there is nothing the attorney can do except formally appeal the decision, which is a lengthy and expensive process.

Securing exclusive possession of the home for the abused woman is often an effective and necessary remedy, but it can be very difficult to obtain. Judges are very reluctant to evict a man from his home, especially without notice. If a judge denies such a request, there is little a private attorney can do beyond requesting that the abuser be ordered to pay for alternative housing for the woman and her family.

If the woman has unrealistic expectations regarding what an attorney can do for her, both she and her attorney will be frustrated and unhappy with the process. It is better for everyone involved to have realistic expectations about what can be achieved through this often lengthy and costly process.

It may also be important to stress to the woman seeking an Order of Protection that the effectiveness of this process may depend on her abuser's respect for and/or fear of the courts - something she may be best able to gauge. Orders of Protection are most effective in preventing future abuse when an abuser who fears the consequences of violating the Order chooses to abide by the Order, rather than when the actual enforcement process is invoked once a violation has occurred. An Order of Protection can tell the abuser to cease violence, but if he ignores the Order the woman has still suffered another beating.

Though the new Act with its stronger penalties will hopefully be more effective than the old remedies, it is not magic, nor will the court process automatically become speedy and efficient. Women seeking assistance through the court should be aware of its very real limitations. A good attorney will help her understand the limits of the court process and of his or her own effectiveness. Realistic guidance by advocates can also help women seek the safest and best alternatives for themselves with as little disappointment as possible.

#### D. WHAT INFORMATION THE ATTORNEY NEEDS

A woman who is seeking an Order of Protection in civil court should be prepared to provide her attorney at their first meeting with information relating to past incidents of abuse, including dates, times, names of witnesses, police or medical reports if they exist, physical evidence (pictures, torn or bloody clothing, weapon), and any information she has relating to a pattern of abuse (for instance, whether it is related to alcohol or drug abuse, pregnancy, job stress). It may be helpful for her to think these things through in advance and write the information down to take with her when she is first meeting with her attorney.

If the woman is seeking support, custody, a property settlement, and/or divorce or separation, she should have information or documentation concerning the following:

- Children (birthdates, ages, etc.);
- Property (a legal description of owned real estate, or the title, and a list of other property or assets and their value, if possible);
- Income (his and hers); and
- Losses caused by his abuse (time off work, medical expenses, moving expenses).

Having this information ready can save the woman and her attorney time and may make her feel less apprehensive about her initial appointment.

#### E. CONTACTING/INFORMING ATTORNEYS

Advocating on a battered woman's behalf with a private attorney may be difficult since attorneys may see themselves as the only necessary advocates for their clients. Suggestions regarding legal rights or actions may not be well taken by attorneys who feel that, because of their legal training, they automatically know more about the law than nonlawyers.

Don't let such an attitude deter you from offering whatever assistance you can. In many cases advocates know more about the IDVA and the problems of battered women than the attorneys handling these cases. If the attorney accepts an advocate's help, the woman may get better legal protection.

Attorneys often are frustrated by the wide-ranging legal and non-legal needs of battered women. As an advocate, you may be able to help the women and lawyers by meeting many needs such as shelter, employment, and counseling. You also can help the attorney understand the woman's situation so that the most effective legal action can be taken.

Many attorneys throw up their hands in disgust when women return to their husbands halfway through a divorce proceeding or after an Order of Protection has been obtained. An advocate may be able to help the attorney understand the pressures and needs that cause a woman to return to a potentially abusive situation, so that the attorney is willing to follow through with the case later if the woman requests it, or so that the attorney will not refuse the next battered woman's case.

More concretely, an advocate can provide a cooperative attorney with useful information and guidance. Referrals can be made to other attorneys familiar with the Act if specific questions arise, or the attorney can be referred to the Illinois Coalition Against Domestic Violence's manual for attorneys entitled The Domestic Violence Order of Protection: Civil Court Practice.<sup>2</sup> This contains information and forms relating to the Act which should be of great help to any attorney representing an abused person.

#### F. WHEN CIVIL COURT PROCESS BECOMES CRIMINAL

If an attorney obtains an Order of Protection in civil court containing an order to stop abusing, or an order granting sole possession of the home to the protected person, a violation of the order by the abuser is enforceable in civil or criminal court. If the woman so chooses, her civil court attorney can initiate contempt of court proceedings by filing a "rule to show cause" - a notice to the court and to the abuser that the abuser must appear before the judge and explain ("show cause") why he should not be held in contempt of court for violating the order. (If the abuser is avoiding being served, or if giving him notice would create danger, a judge may instead order him picked up and brought to court without notice.) If the judge finds he violated the Order of Protection, the abuser can be fined or given a jail sentence of up to six months. (Remember, all of the other remedies in an Order of Protection are enforceable through contempt of court as well.)

The other alternative for enforcement of the stop abuse or sole possession order is prosecution as a Class A misdemeanor in criminal court. This may be desirable for several reasons:

- The criminal remedy can be quicker and safer. If an Order of Protection is violated on an evening or weekend, the woman can call the police and the abuser can be arrested promptly for violating the Order and/or for any other criminal act he has committed. In contrast, if a woman decides not to go through the criminal court process she will have to wait to see her attorney and initiate a contempt proceeding during regular court hours.
- The abuser may take a criminal court action more seriously than civil court.
- Criminal court enforcement doesn't require a private attorney because the commission of a misdemeanor is considered a crime against the state. If the state's attorney decides to go forward with the case, s/he will prosecute it free of charge.
- The criminal court can, and is more likely to, impose stricter punishments. A Class A misdemeanor can result in up to a year's imprisonment or a \$1,000 fine.

In order to have a civil Order of Protection enforced in criminal court a woman can either call the police when the violation occurs and have the offender arrested, or go to the closest warrant office (in Chicago) or state's attorney's office (outside Chicago) to sign a criminal complaint. From that point on the violation is handled as a criminal matter. The woman should keep her private attorney informed regarding the criminal court proceedings, as such information may be useful in civil court divorce proceedings and custody matters.

#### G. COMMON PROBLEMS/GOOD RESPONSES

Expecting too much from an attorney is one common problem. As an advocate, try to make sure the woman that you are assisting has realistic expectations regarding what the civil court process and a private attorney can do for her.

Another possible problem is an uncommunicative or resistant attorney. If a woman cannot get her attorney to answer her questions or explain what is going on, she may wish to consider changing attorneys. This can be expensive and time-consuming, and it may harm her chances of getting what she needs. Judges may assume she is unreasonable if she has changed attorneys repeatedly. However, if she is not getting what she wants or needs, she should not hesitate to demand information or change attorneys.

## H. MONITORING

The skills, sensitivity, and knowledge of attorneys vary widely. Many attorneys are concerned with the problems of battered women, sensitive to their needs, and knowledgeable regarding available remedies. Advocates who have contact with such attorneys should provide positive feedback to them on their work. Dealing with a sexist court system which is insensitive to the needs of abused woman can be incredibly difficult and frustrating for attorneys. Encouragement from advocates and appreciation of their efforts can be very important.

If you or someone for whom you are advocating is dissatisfied with the response of a private attorney, you should also provide feedback rather than just going on to the next attorney. There are several avenues for offering constructive complaints:

- You or the attorney's client can write to the attorney expressing your dissatisfaction with the services provided.
- You can provide this information to the attorney's employer if there is one (law firm, legal services office).
- You can make a complaint to the referral source such as the bar association, abused women's program, or volunteer attorney group. This is important information for these people to have for future reference.
- If you or the client feel that what the attorney did amounts to malpractice or was unethical, you can make a formal complaint to the Illinois Attorney Registration and Disciplinary Commission. They are slow to take any official action, but they have the power to revoke the license of an attorney who is acting illegally or unethically.

## CHAPTER VII

### NOTES

1. For advice on how an abused woman may locate and select an attorney, see also: A Handbook for Domestic Violence Victims (Springfield, Illinois: Illinois Coalition Against Domestic Violence, forthcoming).

2. Kathleen Flaherty, The Domestic Violence Order of Protection: Civil Court Practice, (Springfield, Illinois: Illinois Coalition Against Domestic Violence, 1982). To order, send \$3.00 plus \$1.00 postage and handling to:

ICADV  
931 South Fourth Street  
Springfield, Illinois 62703

## CHAPTER VIII: COMMUNITY ADVOCACY

For the purpose of this chapter, advocacy refers to the process of sensitizing and educating individuals and groups to the issue of domestic violence and to the Illinois Domestic Violence Act (IDVA), and reminding society of its obligation to provide a positive and supportive response to the victims of domestic violence. Advocates must attempt not only to provide information, knowledge, and support to the victims of domestic violence. They must also increase public awareness of domestic violence and the recently enacted IDVA, and insure that the criminal justice and legal systems are held accountable for fulfilling their responsibilities under the IDVA.

### A. COMMUNITY EDUCATION

In order to insure successful implementation of the IDVA the public must be alerted to the problem of domestic violence, the availability of resources, the protected rights of the victims, and the responsibilities of the criminal justice and legal systems under the IDVA. The public needs to understand why the IDVA was enacted. Community education should take place among the general citizenry as well as with specific groups such as hospitals, social service agencies, churches, social and civic organizations, and parents' groups in day care centers and schools.

A coordinated plan for community education on the IDVA should include:

- Distribution of pamphlets, posters and brochures;
- Public speaking at community centers, schools, churches, and social and civic group meetings;
- Training sessions with appropriate agencies, including hospitals, social service agencies, local government units, and police departments;
- Radio and television public service announcements;
- Letters to editors; and
- Public relations work with the media to obtain news and feature stories and appearances on talk shows.

Bringing attention to the issues of abused women and the legislated responsibilities of the police, state's attorneys,

and judges may create a new level of community expectation regarding the actions of these parties. These individuals and their respective systems may then realize that the public expects the problems of abused women to be addressed seriously and adequately.

Public awareness and education also can encourage and stimulate involvement of certain volunteer sectors within the community in providing direct aid to abused women. Most victims of domestic violence are in need of some form of emergency assistance - perhaps transportation, financial assistance, temporary housing, or clothing. Religious organizations, service groups, and community agencies can be contacted to ascertain their ability and willingness to help meet these needs. Through coordinated and organized efforts, they could offer vital services and resources to victims of domestic violence.

#### B. COALITION BUILDING

Public education also paves the way for the development of networks among individuals, agencies, and organizations, both those already involved in the issue of domestic violence, and others that may have an interest in it such as service and church groups. Coalitions and networks should be organized to:

- Increase the strength of the participating agencies (there is more power in numbers);
- Pool information, resources, and talents;
- Develop and demand widespread support for the IDVA and services to abused women and children;
- Monitor the people and systems involved in implementation of the IDVA;
- Exert public pressure upon the criminal justice and legal systems to meet their mandate under the IDVA; and
- Provide training and consultation services to the police, state's attorneys, and judges about domestic violence.

#### C. MONITORING

Another component of advocacy is monitoring the various systems that are required under the IDVA to protect and assist victims of domestic violence. Advocates need to work with citizen/service groups such as the League of Women Voters and the

Illinois Federation of Women's Clubs to monitor the working of the criminal justice and legal systems. For instance, court watching advocacy projects could send individuals from these organizations into the courtroom to monitor the conduct of the courts and evaluate the disposition of cases.

A community-wide task force composed of citizen representatives, consumers, service providers, legal and criminal justice system representatives could be established to insure that all relevant agencies and individuals: 1) know their responsibilities under the IDVA; 2) understand and adhere to appropriate methods, standards, and procedures; and 3) cooperate and coordinate in their implementation of the IDVA.

It is by joining with an informed and active citizenry in this way that advocacy groups can best serve their constituency and fully utilize the provisions of the Illinois Domestic Violence Act to protect and assist abused women.

As described in this section, community advocacy has a three-fold purpose:

- 1) to increase public awareness of abused women and the IDVA;
- 2) to monitor the legal and criminal justice systems to insure that they carry out their responsibilities, as mandated under the IDVA; and
- 3) to encourage coalition-building and networking to develop widespread support and strength in implementing the IDVA.

## CHAPTER IX: CONCLUSION

In summary, it is essential that the legal system respond appropriately to domestic violence by protecting and assisting the victim, and by holding the abuser accountable for his violent behavior. Only then will domestic violence begin to be eliminated. Advocates are the key to bringing about this fundamental change. They do this both by assisting individual victims obtain the legal protection they need and deserve, and by advocating for broad policy changes so that the system responds appropriately to the issue of domestic violence. While the process of bringing about these changes is often frustrating and at times disappointing, in the end it will assure battered women equal protection under the law.

The Illinois Domestic Violence Act: Summary of Provisions  
Public Act 82-621, as amended by Public Act 82-888.

The following summary of the Act was prepared by Kathleen Flaherty (an author of the Act) for the Illinois Coalition Against Domestic Violence.

ABBREVIATIONS USED:

IDVA: Illinois Domestic Violence Act

IMDMA: Illinois Marriage and Dissolution of Marriage Act

Injunction Act: Ill.Rev.Stat. ch.69, Secs. 1-27  
(1979)

Sec. 101. Short title. Illinois Domestic Violence Act.  
Effect: New

Sec. 102. Purposes; rules of construction. Recognizes: domestic violence is pervasive and often increases in frequency and severity; victims need protection and police need technical support. Expands remedies, including physical separation of parties if necessary. Liberal construction.  
Effect: New

Sec. 103. Definitions.

(1) Abuse: striking, threatening, harassing and interfering with personal liberty, but not normal parental discipline.

Effect: Adopts definition comparable to those used in IMDMA and Injunction Act, but clarifies parental rights.

(2) Family or household members: current or former spouses, household members, parents and children, and persons related by blood or marriage.

Effect: Extends protection to all abused family or household members, instead of limiting it to spouses and their children. See also Section 202.b.

(3) Order of Protection: final or temporary Order including any or all of the remedies listed in Sec. 208 or other specified laws.

Effect: The "order of protection" is a new concept in Illinois; it replaces or supplements the statutory injunction against abuse.

Sec. 201. Power of the circuit courts. Includes power to issue orders of protection.

Effect: Adopts and applies rule that circuit courts have general jurisdiction.

Sec. 202. Commencement of action; pleading.

(a) Action for an order of protection can be begun independently or as part of a suit for divorce, legal separation, annulment or child custody or a criminal proceeding.

Effect: Coordinates IDVA with IMDMA and criminal law; establishes IDVA as basic source of substantive remedies and procedural rules in all actions for orders of protection.

(b) Action can be brought personally by the victim or, if the victim is a minor, incapacitated or aged, by anyone on her or his behalf.

Effect. Together with Sec. 103(2), makes protection more available to abused elderly and handicapped persons and battered children.

(c) Requests for orders of protection must be in writing and on oath.

Effect: Adopts typical method of discouraging false allegations.

Sec. 203. Service of Process. (a) In independent actions for orders of protection, petition must be served with summons by sheriff's deputy and must be given emergency priority by sheriff's office. Respondent then has seven days to contest the action. Effect: Preserves respondent's due process rights to notice and opportunity to be heard, while reducing danger of further abuse by expediting service and shortening response time from thirty to seven days.

(b) When order of protection is sought in connection with domestic relations or criminal proceeding, duplicate service of process is not necessary. Time allowed for contest by respondent is not shortened.

Effect: Continues current rules governing actions under IMDMA.

(c) Court may permit service of process by private person over 18.

Effect: Continues current rule of civil practice.

petition shall be filed and served without charge. Later, the court will decide whether petitioner must pay costs.

Effect: Eliminates unnecessary delay by allowing conditional waiver of court costs in emergency cases without prior judicial approval.

- (b) In all other cases, waiver of court costs requires prior judicial approval.

Effect: Continues current rule of civil practice.

- (c) Income of alleged abuser is irrelevant to petitioner's ability to pay court costs.

Effect: Clarifies and continues current rule of civil practice.

Sec. 208. Order of protection; remedies.

- (a) If court finds that abuse occurred, it can issue an order of protection, which can include any or all of the remedies noted in subsection (c) below. Petitioner does not have to choose between these and other legal remedies available (such as filing criminal charges).

Effect: These remedies replace those provided by Sec. 25 of the Injunction Act and supplement those provided by Secs. 501 and 701 of IMDMA and by the criminal law.

- (b) Eligibility for remedies is not lost by action in self defense or fleeing the violent home or by not defending or fleeing.

Effect: Establishes a clear legislative policy on this recurring evidentiary issue.

- (c) Order of protection can include orders which:

(1) Forbid further abuse;

(2) Temporarily bar the violent party from the shared home, for the protection of the rest of the family or household. Legal title is not affected. Available only if petitioner is joint or sole owner or lessee of residence, or is married to respondent or if respondent, has legal duty to support petitioner or child. Court can instead require respondent to provide other housing for the family or household;

(3) Establish temporary custody and visitation rights, under standards of IMDMA;

(4) Prohibit child snatching and concealment and require appearance in court with child;

(5) Require or suggest counseling for respondent;

(6) Prohibit theft, destruction or transfer of petitioner's property, including the improper use of an aged family member's resources;

**Sec. 204. Ex parte orders.**

- (a) "Ex parte" orders authorized if petitioner tried to have summons served on respondent and did give him good notice and opportunity to be heard, or if petitioner is in imminent danger of irreparable injury.  
Effect: Clarifies, but essentially adopts, the balance struck by the law governing injunctions between respondent's due process rights and petitioner's need for prompt protection.
- (b) Duration, contents and remedies in ex parte orders are governed by Secs. 204, 208, 209 and 211. No ex parte order shall require counseling or payment of support, compensation, fees or costs.  
Effect: Adopts current law -- and protects respondent's constitutional rights -- by disallowing ex parte orders where the delay needed for service and notice would pose no danger of irreparable injury.
- (c) If ex parte order is wrongly issued, respondent can have it immediately dissolved or modified.  
Effect: Adopts current protection against false allegations from law governing injunctions.

**Sec. 205. Venue.**

- (a) In independent action for protection, case can be filed in any county where petitioner or respondent reside or where abuse occurred.  
Effect: Selects the venue rule which makes remedies most accessible.
- (b) If protection is sought in connection with domestic relations or criminal proceeding, venue provisions of IMDMA or Criminal Code apply.  
Effect: Continues current rule governing action under IMDMA or Criminal Code.
- (c) Objections to venue must be made promptly (before time to contest the action expires).  
Effect: Continues current rule of civil practice.

**Sec. 206. Application of civil practice act. Civil Practice Act applies unless otherwise provided in IDVA or, if relevant, IMDMA.**

Effect: Coordinates IDVA with these other laws.

**Sec. 207. Petitions of poor persons.**

- (a) If petitioner states in writing and on oath that s/he cannot pay court costs and is seeking an ex parte (emergency) order of protection, the

(7) Require respondent to pay temporary support, where legal duty exists, under standards of IMDMA;

(8) Require respondent to compensate petitioner for monetary losses resulting from abuse;

(9) Require respondent to pay court costs; and

(10) Provide injunctive relief as needed, including referring victims 60 years or older to the aging network.

Effect: Reduces burden on victims and on courts by ensuring that all of these remedies can be obtained in a single action. Currently, all of these remedies are available to some victims if multiple actions are filed, but neither the Injunction Act, IMDMA, nor the criminal laws alone authorize all remedies.

(d) When deciding to grant or deny any IDVA remedy, the court shall consider all relevant facts and record its conclusions about those questions of fact. Relevant facts include:

(1) Frequency, severity, pattern and consequences of respondent's past abuse, respondent's efforts to evade legal process and the likelihood of danger of future abuse;

(2) Danger that respondent will abuse or neglect a child or remove a child from the state;

(3) Where the court has refused to temporarily bar respondent from the home, why a vacate order would have caused much greater hardship for respondent than denial of that order causes for the rest of the family or household.

Effect: New requirement that court record its findings promotes development of fair, predictable and reviewable standards for orders of protection. List (non-inclusive) of relevant factors resolves recurring evidentiary issues. New guidelines for "balancing hardships" establish legislative preference for temporarily barring the abuser from the home rather than forcing the innocent parties to choose between fleeing the home and the danger of future abuse. See also Sec. 209(a).

#### Sec. 209. Orders of protection: contents

(a) Orders must be clear and detailed to give respondent fair notice of what s/he must do and not do. If any IDVA remedy is denied, order shall state court's reason for that denial.

(b) Ex parte orders must note time of issuance and of

expiration, reason for granting relief ex parte, and time and place of hearing for extension.

- (c) Orders must give notice of penalties for violation.

Effect: Adds requirements that order shall state (1) court's reason for denying any IDVA remedy and (2) penalties for violation. Otherwise, continues current rules of civil practice and adopts current rules governing ex parte injunctions.

**Sec. 210. Notice to parties and law enforcement agencies.**

- (a) Orders must be filed with clerk of court, who shall provide copies upon request to petitioner and respondent. A reasonable fee may be charged for required copies, but must be waived if petitioner is proceeding as poor person (see Sec. 207).

Effect: Adopts current rule.

- (b) Clerk shall also send copy to sheriff, who shall provide data for law enforcement records and, if necessary, serve copy on respondent.

Effect: New record-keeping requirement which helps provide police with the information needed to protect victims and reduce police injuries.

- (c) Copy must be personally served on respondent unless he or his attorney was in court when order was entered.

Effect: Adopts current rule governing service of injunctions.

- (d) Above provisions apply to amendments and revocations or orders.

Effect: Continues current rule of civil practice.

**Sec. 211. Duration of orders.**

- (a) Orders issued in independent actions expire within one year; if less than one year, can be extended.

Effect: Replaces permanent orders provided by Sec. 25 of Injunction Act.

- (b) Ex parte orders expire within ten days, unless extended for another ten days or dissolved.

Effect: Adopts current law governing ex parte injunctions.

- (c) Orders issued as preliminary relief in action under IMDMA expire upon entry of final judgment.

Effect: Continues current law governing actions under IMDMA.

- (d) IMDMA governs duration of orders included in final judgments under that Act.

Effect: Continues current law governing actions under IMDMA.

- (e) Orders entered in criminal proceedings expire with the pre-trial release, probation, conditional discharge or supervision.

Effect: Continues current law governing procedures and sentences under criminal code.

Sec. 212. Enforcement of orders.

- (a) Knowing violation of order which prohibits abuse or prevents it by temporarily excluding abuser from shared home is a Class A misdemeanor.

Effect: Creates new protection against further violence by authorizing prompt, on-the-scene police enforcement of orders in situations most likely to involve immediate danger or harm.

- (b) Power of courts to punish violation of their orders is preserved. If petitioner states in writing and on oath that knowing violation has occurred and that imminent danger of violence or flight exists, court may direct sheriff to bring respondent to court.

Effect: Establishes expedited contempt of court procedure for emergency cases. Otherwise, continues current law.

Sec. 213. Trial by jury. No jury trial right, except on issue of compensatory damages and, to extent right currently exists, in enforcement proceedings.

Effect: Adopts general rule followed in other domestic relations actions, while preserving exceptions required by constitutional right to jury trial.

Sec. 301. Arrest without warrant.

- (a) & (b) Police may make warrantless arrest whenever they have probable cause to believe a person committed a crime, including crime of violating an order of protection forbidding abuse or excluding abuser from home.

Effect: Continues current law governing warrantless arrest and stresses its application to crimes of domestic violence.

(c) Police can verify existence of order of protection by inspecting order or calling law enforcement agency.

Effect: See Sec. 302.

Sec. 302. Data maintenance by law enforcement agencies. Sheriffs shall promptly send data on orders of protection to Department of Law Enforcement, which shall keep accurate records and make data available to police "at the scene."

Effect: Part of new law enforcement record-keeping procedures designed to help patrol officers safely and accurately evaluate domestic violence calls and enforce orders of protection.

Sec. 303. Reports by law enforcement officers. Police must make written reports of all bona fide domestic violence calls, including data on history of abuse and prior police intervention. Reports must be compiled and counted as alleged domestic crimes.

Effect: Adds specific requirement for data to be included in police reports. Otherwise, clarifies and continues current law on reports and on crime statistics.

Sec. 304. Assistance by law enforcement officers.

(a) Police at scene of abuse must take reasonable steps to prevent further abuse and shall arrest when appropriate.

Effect: Continues general rule of police responsibility, adding specific examples such as duty to transport for medical help or shelter, to protect during removal of personal possessions and to provide written information on resources and rights.

(b) When arrest not made, police must still write report and also must advise victim of procedures for filing charges and of need to preserve evidence.

Effect: Provides specific examples of police duty to inform victim of rights and procedure.

Sec. 305. Limited law enforcement liability. Police granted immunity from suits for false arrest or failure to protect, unless misconduct was willful and wanton.

Sec. 401. Orders of protection in criminal proceedings; conditions of pre-trial release. Adds new section to criminal code outlining procedures for obtaining an

order of protection. Amends the criminal law's list of possible conditions of pre-trial release by adding a duty to obey the terms of an order of protection.

Effect: Compensates for vulnerability and fear of retaliation faced by victims of abuse upon initiating criminal proceedings by allowing criminal court judge to issue an order of protection pending trial and as a condition of probation, conditional discharge or supervision. Violation of order before trial would be another factor considered by the judge in ruling on the criminal complaint.

Sec. 402. Conditions of probation, conditional discharge and supervision. Amends the criminal law lists of possible conditions of probation, conditional discharge and supervision by adding a duty to obey the terms of an order of protection.

Effect: See Sec. 401.

Sec. 403. Interspousal tort immunity. Amends the law creating spousal immunity from personal injury damage actions by creating an exception for intentional torts where physical harm was inflicted.

Sec. 404. Repealer. Repeals Sec. 25 of the Injunction Act.

Sec. 501. Effective Date. Illinois Domestic Violence Act took effect on March 1, 1982.

DEVELOPMENT OF THE IDVA: A HISTORICAL PERSPECTIVE

Domestic violence is the most frequent and most underreported crime in the United States. Nationally, 1.75 million cases of abuse against women are reported each year. Between 41 and 50 percent of all married women will be beaten by their husbands at least once during the marriage. When abuse does occur, it often escalates in frequency and severity and can end in tragedy. In the United States, 41 percent of all murdered women are killed by their husbands or lovers, and 2,000 children die annually as a result of child abuse. Despite the loss, destruction, and harm to individuals, families, and society caused by domestic violence, it has only recently begun to be considered a crime.

Domestic Violence is not a new phenomenon. Scholars on the subject have documented laws giving husbands the right to physically punish their wives as early as 753 B.C. Others have analyzed the relationship between women's roles in society and the laws and attitudes which have allowed abuse to persist. The legal right of husbands to beat their wives was withdrawn only 100 years ago in the United States, but since then the laws making it illegal for a man to beat his wife have seldom been enforced. Most courts (and the rest of the criminal justice system and society at large) continued to view a man's home as his castle, and all that went on within it "a private matter." Bringing these matters into court was strongly discouraged, as doing so was thought to jeopardize the "peace and harmony" of the home. It was not until 1962 that the California Supreme Court recognized that in such homes there was little peace and harmony left.

These laws and practices are a reflection of how domestic violence has been viewed by society. Our institutions, and we as individuals, have usually looked the other way. This non-response, and the messages typically given to the abused woman ("What did you do to deserve it?", "Go back and be a better wife - try to make your marriage work," etc.) have served to sanction violence in the home and thus to perpetuate it. No one told the abuser he could not do what he was doing - that what he was doing was a crime.

Advocates who have worked with abused women in the past are well aware of the inadequacies of the previous laws. Many victims - such as women who were divorced from, or never married

to, their abuser, children, and the elderly - were totally unprotected. Under earlier laws the process of obtaining protection was very lengthy and enforcement capabilities were extremely limited. In short, the laws simply did not respond to the realities of domestic violence and failed to protect its victims.

It was through the hard work of advocates that the new Illinois Domestic Violence Act was written and passed. Because abused women and advocates informed legislators of their experiences and specific needs, a law that directly corresponds to these needs resulted. In passing this law the General Assembly of the State of Illinois has recognized "domestic violence as a serious crime against the individual and society which produces family disharmony in thousands of Illinois families, promotes a pattern of escalating violence which frequently culminates in intrafamily homicide, and creates an emotional atmosphere that is not conducive to healthy childhood development."

The Illinois Domestic Violence Act passed with a unanimous Senate vote and a 153 to 7 vote in the House of Representatives on June 24, 1981. Governor James R. Thompson signed the legislation on September 24, 1981. The strong support the bill received is a credit to the efforts of all those who worked to pass it and a hopeful sign in the history of domestic violence.

APPENDIX B

NOTES

1. Russell Dobash and Rebecca Dobash, "Wives: The Appropriate Victims of Marital Violence," Victimology. Vol. 2, Nos. 3-4, p. 426.

2. Terry Davidson, "Wife Beating: A Recurring Phenomenon Throughout History," Battered Women: A Psychosociological Study of Domestic Violence, Maria Roy, ed. (New York: Van Nostrand Reinhold Company, 1977). pp. 2-21.

3. Del Martin, Battered Wives, (San Francisco, California, Glide Publications, 1976). p. 103.

4. Illinois Domestic Violence Act, Public Act 82-621, Article I, Section 102 (1).

ADVOCACY AND THE UNAUTHORIZED PRACTICE OF LAW

The issue of unauthorized practice of law is important to consider in any discussion of advocacy for abused women. What constitutes unauthorized practice of law is a question that is complex and covers a wide variety of actions. Given that a key component of unauthorized practice of law is that the advocate is representing the abused woman, it should be kept in mind that one of the primary purposes of advocacy (as noted in Chapter VIII - Section E) is to enable the woman to accomplish these tasks for herself. However, as an advocate you may find yourself speaking on behalf of the woman to help her secure her rights. Therefore, it is essential that you have the woman's permission or authorization to do this. Such permission or authorization should be in the form of a written authorization/release of information.

Generally the law is unclear as to whether it is legal for an advocate to prepare court papers, outline legal options, or appear in court as a representative of the abused woman if the advocate is not employed or supervised by an attorney. There is little likelihood of prosecution and conviction for these actions and that likelihood is reduced if these services are performed with no charge to the client and if there are no attorneys available to render this assistance. (For example, there are no attorneys available or willing to do an Emergency Order of Protection.) There is less concern about an advocate helping an abused woman to fill out a criminal complaint as she will eventually be represented by the state's attorney and the advocate is only providing support and assistance.

It is most important that the advocate always explain to the abused woman that she is not an attorney and that she cannot and is not giving legal advice. The advocate should explain that she is sharing information based on what she knows as a layperson working in the field of domestic violence and who has made observations of, or been given information about, what is occurring in the legal system. It is best if the advocate gets a signed statement acknowledging that the woman recognizes that the advocate is not an attorney, but is a layperson.

If an advocate goes to civil court with an abused woman who does not have an attorney, the judge may allow this, but the advocate should request of the judge, on the record, for permission to speak on behalf of the abused woman unable to get an attorney.

Property, support, and child custody questions are very complex and may have far-reaching, possibly even damaging effects. Advocates should always urge the abused woman to seek the advice of an attorney on these matters. Any arrangement for child custody should always first be discussed with an attorney to check out possible future consequences.

## APPENDIX C

### NOTES

1. National Public Law Training Center, Liability and Unauthorized Practice, (Rockville, Maryland: National Clearinghouse on Domestic Violence, n.d.), pp. 1, 8, 14-17.

VICTIM RIGHT'S SHEETS

The following are samples of the Victim's Rights Sheet that the police are to give to victims on domestic violence calls. It contains all the information mandated by the Illinois Domestic Violence Act. Originally developed in English and Spanish by the Chicago Metropolitan Battered Women's Network for use by the Chicago Police Department, the sheet has been adapted by the Illinois Coalition Against Domestic Violence and distributed to law enforcement departments throughout the state.





# ILLINOIS COALITION AGAINST DOMESTIC VIOLENCE

931 South Fourth Street

— Springfield, Illinois 62703

— (217) 789-2830

## ALTON

Oasis Women's Center  
618/465-1978

## AURORA

Mutual Ground  
312/898-4490

## BELLEVILLE

Call for Help — The BRIDGE  
618/235-0892

## BLOOMINGTON

YWCA of McLean County —  
Countering Domestic and  
Sexual Violence  
800/322-5015  
309/827-4005

## CAIRO

Community Health Services —  
Cairo Women's Shelter  
618/734-HELP

## CANTON

Fulton County Women's  
Crisis Service  
309/647-2466

## CARBONDALE

Women's Center  
618/529-2324

## CENTRALIA

Call For Help/Women In Need  
618/533-SAFE

## CHARLESTON

Coalition Against Domestic  
Violence  
217/345-4300

## CHICAGO

Chicago Abused Women  
Coalition  
312/278-4566

Chicago Department of  
Human Services  
312/744-8418

Family Rescue  
312/375-8400

Loop YWCA — Women's  
Services  
312/372-6600 (office)

Mujeres Latinas En Accion  
312/226-1544

Southwest Women Working  
Together  
312/436-7678

Travelers Aid Society  
312/435-4500 (day)  
312/686-7562 (night/weekend)

Uptown Center Hull House —  
Family Violence Task Force  
312/561-3500 (day)  
312/769-0205 (night/weekend)

## CLAY CITY

Stopping Woman Abuse Now  
618/676-1911

## DANVILLE

A Woman's Alternative  
Shelter  
217/443-5566

## DECATUR

DOVE Domestic Violence  
Project  
217/423-2238

## DE KALB

Safe Passage  
815/756-2228

## DES PLAINES

Life Span  
312/824-4454

## ELGIN

Community Crisis Center  
312/697-2380

## EVANSTON

Evanston YWCA  
312/864-8780

## FREEPORT

YWCA of Freeport  
815/235-9421 (day)  
815/233-HELP (night/weekend)

## GLEN ELLYN

Family Shelter Service  
312/469-5650

## JOLIET

Guardian Angel Home  
815/722-3344

Joliet-Will County Community  
Action Agency  
815/727-8912 (office)

## KANKAKEE

Kankakee County Coalition  
Against Domestic Violence  
815/932-5800

## OAK PARK

Sarah's Inn  
312/386-4225

## PEORIA

Tri-County WomenStrength  
309/674-4443

## PRINCETON

Quad Counties Counseling  
Center  
815/875-4458 (day)  
815/875-2811 (night/weekend)

## QUINCY

Quincy Area Network Against  
Domestic Abuse  
217/222-2873

## ROCHELLE

HOPE of Rochelle  
815/562-8890 (referrals)

## ROCKFORD

WAVE/PHASE  
815/962-6102

## ROSICLARE

Anna Bixby Women's Center  
618/285-3139

## SOUTH HOLLAND

South Suburban Family  
Shelter  
312/596-9066

## SPRINGFIELD

Sojourn Women's Center  
217/544-2484

## STERLING

Sterling-Rock Falls YWCA —  
COVE  
815/626-7277

## STREATOR

Against Domestic Violence  
800/829-3375

## SUMMIT

Des Plaines Valley  
Community Center  
312/485-5254

## URBANA

A Woman's Place  
217/384-4390

## WAUKEGAN

A Safe Place  
312/249-4450

## WOODSTOCK

Turning Point  
815/338-8080

## WORTH

Crisis Center for South  
Suburbia  
312/974-1791

Unless otherwise indicated, all  
numbers listed are 24-hour crisis  
lines.

INSTRUCTIONS: Sign in the appropriate space below and give to the victim or responsible party acting on behalf of the victim.

### RIGHTS OF DOMESTIC CRIME VICTIMS

The Illinois Domestic Violence Act provides in part that victims who are abused by members of their families/households are afforded better protection through improved legal remedies and increased police responsibility.

**ABUSE** means the act of striking, threatening, harassing or interfering with the personal liberty of any family or household member by any other family or household member, but excluding reasonable discipline of a minor child by a parent or person in loco parentis of such minor child.

**FAMILY OR HOUSEHOLD MEMBER** means spouses, former spouses, individuals sharing a common household, or parents and children.

You have the right to be protected from abuse, to press criminal charges against your abuser and to be protected from further abuse. If your abuser is found guilty of a criminal charge, a jail sentence is not the only possible outcome. The law provides for a court to issue an "Order of Protection" which provides additional remedies on your behalf. You have the right to request an order of protection on your own behalf from the court. In the case of a minor or incapacitated victim, a concerned person may seek an order of protection on behalf of another person.

Orders of protection are recorded with the court and are entered into a statewide computer system. If you have already obtained an order of protection and your abuser continues to violate the terms of the order, the police should be notified in order to take the proper action.

### METHODS FOR OBTAINING AN ORDER OF PROTECTION

Orders of protection may be obtained by:

1. asking your attorney to file a petition in civil court;
2. requesting an order of protection in conjunction with divorce proceedings, or
3. requesting an order of protection during the course of a criminal prosecution, either while awaiting a trial or as a condition of court-ordered supervision or probation.

### COURT-ORDERED REMEDIES

Orders of protection may include the following remedies:

1. Prohibiting an abuser from threatening or continuing to abuse a victim;
2. Granting temporary possession of a residence to a victim, or
3. Prohibiting child snatching and/or the destruction/transfer of a victim's property.

### ASSISTANCE BY LAW ENFORCEMENT OFFICERS

When a police officer has reason to believe that a person has been abused by a family/household member, the officer will immediately act to prevent further abuse by:

1. providing or arranging transportation for the victim to a medical facility for treatment of injuries or nearby place of shelter or safety;
2. accompanying the victim to his/her place of residence for a reasonable period of time to remove necessary personal belongings and possessions, or
3. arresting the abuser where appropriate.

When a police officer does not make an arrest or otherwise initiate criminal proceedings, the officer will:

1. make a police report of the investigation of any bona fide domestic abuse incident and the disposition of such investigation, and
2. advise the victim of the importance of preserving evidence.

### GENERAL INFORMATION

If your abuser has left the scene and if there has been no arrest action by the police for any reason, you may seek the arrest of your abuser by going to the warrant office of your local court on a weekday morning, excluding holidays, between 9:00 A.M. and noon, and informing the warrant clerk that you wish to obtain an arrest warrant. The warrant clerk will prepare a formal complaint based on your account of the incident and such other evidence as is made known. You will be required to swear to the truthfulness of the content of your complaint in the presence of a judge and an arrest warrant/summons may be issued. Victims may identify their appropriate court location by contacting the Central Warrant Unit of the Chicago Police Department, telephone 744-5507, between 9:00 A.M. and 4:00 P.M., Monday through Friday.

### SOURCES OF ASSISTANCE

If you have been threatened or abused, there are programs that offer shelter, counseling and legal services. Example:

Traveler's Aid Telephone: 435-4500 (9:00 A.M. to 5:00 P.M.)  
686-7562 (at other times)

Southwest Women Working Together  
Telephone: 436-7678 (24 hours a day)

OFFICER'S SIGNATURE - STAR NO.

DATE

ORDER OF PROTECTION FORMS

A full set of forms regarding Orders of Protection follow. The Petition for Order of Protection is the form that requests the court to grant an Order of Protection. The reasons why the Order is requested and what remedies are sought should be included in the Petition. Copies of the actual Order of Protection forms and a sample Complaint of a Violation of the Order of Protection are also included. The advocate should be familiar with the forms and the information needed to fill them out. These or similar forms should be available in each county's Clerk of the Court office.

UNITED STATES OF AMERICA

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF

COUNTY OF

Plaintiff/Petitioner

-VS-

Defendant/Respondent

No. \_\_\_\_\_

- Independent Petition
- Criminal Proceeding
- Matrimonial

File Stamp Here

**PETITION FOR ORDER OF PROTECTION**

Now comes the Petitioner \_\_\_\_\_ on his/her own behalf or on behalf of \_\_\_\_\_, a minor child, or on behalf of \_\_\_\_\_, a person prevented by physical or mental incapacity from seeking relief on his/her own behalf, pursuant to Illinois Revised Statutes, Chapter 40, Section 2302-2 Et Seq. and moves this honorable Court to issue an Order of Protection in this cause and in support thereof, states as follows:

**COUNT I**

(Check only the boxes that apply)

1. That the Petitioner hereinafter referred to as the "Alleged Abused" resides at \_\_\_\_\_ in the County of \_\_\_\_\_ State of \_\_\_\_\_.

OR

2. That the Petitioner resides at \_\_\_\_\_ in the County of \_\_\_\_\_ State of \_\_\_\_\_. And that \_\_\_\_\_, the person on whose behalf this petition is brought, hereinafter referred to as the "Alleged Abused", resides at \_\_\_\_\_ in the County of \_\_\_\_\_ State of \_\_\_\_\_.

3. That the Respondent \_\_\_\_\_, hereinafter referred to as "Respondent" resides at \_\_\_\_\_ in the County of \_\_\_\_\_ State of \_\_\_\_\_.

4. That the Respondent stands in the following relationship to the Alleged Abused as  
 Spouse  Former Spouse  Mother  Father  Child

OR

4. That the Respondent shares a common household with the Alleged Abused at \_\_\_\_\_ in the County of \_\_\_\_\_, State of \_\_\_\_\_.

5. That on personal knowledge of affiant, the Respondent has acted in the following manner toward the Alleged Abused in that on or about the \_\_\_\_\_, 19\_\_\_\_\_, said Respondent did (describe in detail the facts involved in this specific incident or incidents).

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

6. That pursuant to I. R. S. Chapter 40, Paragraph 2302-8, Section 208C, the Petitioner seeks the following remedy or remedies

That the Respondent refrain from striking, threatening, harassing or interfering with the personal liberty of \_\_\_\_\_

Petition for Order of Protection

- That possession of the residence or household located at \_\_\_\_\_, be granted to \_\_\_\_\_ to the exclusion of the Respondent (this will not affect title to property) because
- A. the parties hereto are spouses.
  - B. the residence is solely or jointly owned or leased by Petitioner.
  - C. the Respondent has the legal duty to support the Petitioner or minor children.

**(Check this box if you wish the Court to make a child custody determination)**

- That the Petitioner further moves the Court to determine that it has jurisdiction pursuant to Section 4, of the Illinois Uniform Child Custody Jurisdiction Act and to award temporary custody to \_\_\_\_\_ or establish visitation rights with regard to the minor child/children \_\_\_\_\_, in accordance with the standards set forth in Part IV of the I.M.D.M.A. and in support thereof states:

**(Complete sections I to III that are necessary to establish jurisdiction for child custody)**

- I. That this state**
- A. is the home state of the child at the time of the commencement of this proceeding, and/or
  - B. had been the child's home state within 6 months before commencement of this proceeding and the child is absent from this state because of his/her removal or retention by a person claiming his/her custody or for other reasons, and a parent or person acting as parent continues to live in this state;
- II. That it is in the best interest of the child/children that a court of this state assume jurisdiction because** the child and his parents, or the child and at least one contestant, have a significant connection with this state, and there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships;
- III. That the child/children is/are physically present in this state and**
- A. the child has been abandoned
  - B. it is necessary in an emergency to protect the child/children because he/she/they has/have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent;
  - C. that it appears that no other state would have jurisdiction under prerequisites substantially in accordance with Sub Paragraph I-II-or III or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child/children and it is in the best interest of the child/children that this Court assume jurisdiction.
- That the Respondent be prohibited from removing the minor child/children from the jurisdiction of the Court or concealing the child/children from his/her parent or person in loco parentis.
- That the Respondent be ordered to appear in Court with the minor child/children \_\_\_\_\_
- That the Respondent be ordered to undergo counseling for a specified duration with a social worker, psychologist, clinical psychologist, psychiatrist, family service agency, mental health center guidance counselor or any other guidance service the Court deems appropriate.
- That the Respondent be restrained from transferring, encumbering, concealing, damaging or otherwise disposing of any of the Petitioner's property or joint property of the Petitioner and the Respondent.
- That the Respondent be required to pay temporary support for the Petitioner and the minor child/children in the amount of \$ \_\_\_\_\_ frequency \_\_\_\_\_.
- That the Respondent be required to pay to the Petitioner \$ \_\_\_\_\_ as actual monetary compensation for loss suffered as a direct result of this abuse.
- That the Respondent be required to pay Court costs in this matter.
- That the Respondent be required to pay attorney fees in the amount of \$ \_\_\_\_\_ in connection with any action to obtain, modify, appeal or reopen any order of protection.

That the Respondent be further enjoined or ordered as follows \_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, Petitioner moves this honorable Court to grant the relief as requested in Paragraph 6 (six) of COUNT I.

COUNT II

**COMPLETE THIS SECTION ONLY IF YOU ARE SEEKING *EX PARTE* RELIEF IN ADDITION TO THE ORDER OF PROTECTION REQUESTED IN COUNT I.**

6. The Petitioner realleges and incorporates by reference Paragraphs one through five inclusive of Count I of this petition and further alleges as follows:

Check one

7. that should Petitioner be required to give prior notice to the named respondent of his/her attempt to obtain judicial relief as to any remedy requested in Paragraph 8 of this Count II, the irreparable injury which that remedy seeks to prevent would be likely to occur

OR

7. that Petitioner has diligently attempted to obtain Service of Process upon the Respondent and has diligently attempted to serve written notice of the date, time and location of the hearing, together with a copy of the petition and all supporting affidavits upon the Respondent in accordance with the Illinois Supreme Court Rules 11 & 12, through the actions specified below

8. that pursuant to I. R. S. Chapter 40, Paragraph 2302-8, Section 208C, the Petitioner seeks the following remedy or remedies

That Respondent be ordered to refrain from striking threatening, harassing or interfering with the personal liberty of \_\_\_\_\_ or any other family or household member.

That possession of the residence or household located at \_\_\_\_\_ be granted to \_\_\_\_\_ to the exclusion of the Respondent (this will not affect title to property) because  
 A. the parties hereto are spouses  
 B. the residence is solely or jointly owned or leased by Petitioner  
 C. the Respondent has the legal duty to support the Petitioner or minor children

(Check this box if you wish the Court to make a child custody determination)

That the Petitioner further moves the Court to determine that it has jurisdiction pursuant to Section 4 of the Illinois Uniform Child Custody Jurisdiction Act and to award temporary custody to \_\_\_\_\_ or establish visitation rights with regard to the minor child/children \_\_\_\_\_ in accordance with the standards set forth in Part IV of the I. M. D. M. A and in support thereof states:

(Complete sections I to III that are necessary to establish jurisdiction)

I. That this state

- A. is the home state of the child at the time of the commencement of this proceeding, and/or
- B. had been the child's home state within 6 months before the commencement of this proceeding and the child is absent from this state because of his/her removal or retention by a person claiming his/her custody or for other reasons, and a parent or person acting as a parent continues to live in this state;

II. That it is the best interest of the child/children that a Court of this state assume jurisdiction because

the child and his parents, or the child and at least one contestant have significant connection with this state, and there is available in this state substantial evidence concerning the child's present or future care, protection, training and personal relationships;

OR

III. That the child/children is/are physically present in this state and

- A. the child/children has/have been abandoned, or
- B. it is necessary in an emergency to protect the child/children because he/she/they have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent, or
- C. that it appears that no other state would have jurisdiction under the prerequisites substantially in accordance with Subparagraphs I - II or III or another state has declined to exercise jurisdiction on the grounds that this state is the more appropriate forum to determine the custody of the child/children and it is in the best interest of the child/children that this Court assume jurisdiction.

Petition for Order of Protection

Continuation of Paragraph 8

- That the Respondent be prohibited from removing the minor child/children from the jurisdiction of this Court or concealing the said minor child/children from his/her parent or person in loco parentis.
- That the Court order the Respondent to appear in Court with the minor child/children. \_\_\_\_\_
- That the Respondent be restrained from transferring, encumbering, concealing, damaging or otherwise disposing of any of the Petitioners property or joint property of the Petitioner and Respondent.
- That the Respondent be further enjoined or ordered as follows \_\_\_\_\_

**WHEREFORE**, Petitioner moves this honorable Court to grant the relief as requested in Paragraph 8 (eight) of Count II

\_\_\_\_\_

PETITIONER

**AFFIDAVIT**

The undersigned being first duly sworn upon oath, deposes and states that the contents of the foregoing petition for the Order of Protection are true and correct.

\_\_\_\_\_

Affiant

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Phone \_\_\_\_\_

SUBSCRIBED AND SWORN to before me

Date \_\_\_\_\_

\_\_\_\_\_

Judge - Circuit Clerk - Notary Public

STATE OF ILLINOIS

COUNTY OF \_\_\_\_\_

IN THE CIRCUIT COURT OF

— Vs. —	No. _____  <input type="checkbox"/> Independent Petition <input type="checkbox"/> Criminal Proceeding <input type="checkbox"/> IMDMA Proceeding	File Stamp Here
PETITIONER/PLAINTIFF	ADDRESS	CITY
On behalf of:		
RESPONDENT/DEFENDANT	ADDRESS	CITY
SERVICE MADE ON RESPONDENT BY: <input type="checkbox"/> Presence in Court <input type="checkbox"/> Personal Service    Date: _____		

### DOMESTIC VIOLENCE ORDER OF PROTECTION

The Court, having jurisdiction over the subject matter and the parties, finds that the respondent has committed abuse as defined by the Illinois Domestic Violence Act.

IT IS HEREBY ORDERED THAT:

- 1. The respondent shall refrain from striking, threatening, harassing or interfering with the personal liberty of \_\_\_\_\_ or any other family or household member, namely, \_\_\_\_\_  
Particularly s/he shall not: \_\_\_\_\_
- 2. Possession of the residence located at \_\_\_\_\_ is granted to \_\_\_\_\_ to the exclusion of the respondent, who shall not enter it even with the consent of any of its inhabitants. This order does not affect title to property.

**Any violation of paragraphs 1 or 2 of this Order of Protection constitutes a CLASS A MISDEMEANOR and subjects the respondent to immediate arrest, provided s/he has been served notice or has actual knowledge of this order.**

**WILLFUL VIOLATION OF ANY PROVISION OF THIS ORDER CONSTITUTES CONTEMPT OF COURT AND MAY RESULT IN FINE OR IMPRISONMENT.**

- 3. Temporary custody of the minor child/ren \_\_\_\_\_ is awarded to the petitioner, subject to visitation on the following days and times: \_\_\_\_\_  
Respondent shall pick up and drop the child/ren at: \_\_\_\_\_
- 4a. The respondent is prohibited from removing the minor child/ren from the jurisdiction of the Court and from concealing them from the parent or person in loco parentis.
- 4b. The respondent shall appear in Courtroom \_\_\_\_\_ at \_\_\_\_\_ m. on \_\_\_\_\_ with the minor child/ren.
- 5. The respondent shall undergo counseling at \_\_\_\_\_ at least \_\_\_\_\_ per \_\_\_\_\_, beginning no later than \_\_\_\_\_ and continuing at least until \_\_\_\_\_.

**DOMESTIC VIOLENCE ORDER OF PROTECTION**

Case No. \_\_\_\_\_

6. The respondent shall not transfer, encumber, conceal, damage, or otherwise dispose of any property solely or jointly owned by the petitioner, or any other family or household member, except as follows:  
\_\_\_\_\_

7. The respondent shall pay temporary monthly maintenance of \$ \_\_\_\_\_ and monthly child support of \$ \_\_\_\_\_. Payments must reach \_\_\_\_\_ at \_\_\_\_\_ by no later than the \_\_\_\_\_ of each month.

8. The respondent shall pay petitioner \$ \_\_\_\_\_ by no later than \_\_\_\_/\_\_\_\_/\_\_\_\_, as compensation for the following losses resulting directly from abuse by the respondent: \_\_\_\_\_

This amount does not include any other such losses, nor preclude future recovery thereof.

9. The respondent shall reimburse petitioner \$ \_\_\_\_\_ for court costs and shall pay for any future costs in connection with any action to obtain, modify, enforce, appeal or re-open any Order of Protection. Respondent shall pay \$ \_\_\_\_\_ for/toward petitioner's attorney fees. Payment shall be made to \_\_\_\_\_ no later than \_\_\_\_/\_\_\_\_/\_\_\_\_.

This order is enforceable by petitioner or the attorney.

10. The respondent is further enjoined as follows: \_\_\_\_\_  
\_\_\_\_\_

The following remedies, requested by the petitioner pursuant to the Illinois Domestic Violence Act, Subsection (c) of Section 2302-8, were denied for the stated reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This order was issued on: \_\_\_\_\_ Date \_\_\_\_\_ Time.

This order will remain in full force and effect until:  Date: \_\_\_\_\_; or  
 The occurrence of the following event: \_\_\_\_\_

Name \_\_\_\_\_  
Attorney for \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
Telephone \_\_\_\_\_

ENTER: \_\_\_\_\_ JUDGE

The petitioner, the petitioner's attorney or Clerk of the Court should complete the following information about the respondent so that this order can be entered into the Illinois Department of Law Enforcement's LEADS computer system by the sheriff.

BIRTHDATE	SEX	RACE	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY NUMBER
DISTINGUISHING FEATURES AND ALIAS INFORMATION							DRIVER'S LICENSE

STATE OF ILLINOIS

COUNTY OF \_\_\_\_\_

IN THE CIRCUIT COURT OF

— Vs. —	No. _____  <input type="checkbox"/> Independent Petition <input type="checkbox"/> Criminal Proceeding <input type="checkbox"/> IMDMA Proceeding	File Stamp Here
PETITIONER/PLAINTIFF	ADDRESS	CITY
On behalf of:		
RESPONDENT/DEFENDANT	ADDRESS	CITY

**EX PARTE DOMESTIC VIOLENCE ORDER OF PROTECTION**

The Court, having jurisdiction over the subject matter, finds that the respondent has committed abuse as defined by the Illinois Domestic Violence Act.

AND BASED ON THE FOLLOWING FURTHER FINDINGS:

- The petitioner has diligently attempted to obtain service of process upon the respondent and has diligently attempted to serve written notice of the date, time and location of the hearing together with a copy of the petition and all supporting affidavits upon the respondent in accordance with Supreme Court Rules 11 and 12; and/or
- The irreparable injury which the following remedies are intended to prevent would have been likely to occur if respondent had been given prior or earlier notice of this hearing;

IT IS HEREBY ORDERED THAT:

- 1. The respondent shall refrain from striking, threatening, harassing or interfering with the personal liberty of \_\_\_\_\_  
 or any other family or household member, namely, \_\_\_\_\_  
 \_\_\_\_\_  
 Particularly s/he shall not: \_\_\_\_\_
- 2. Possession of the residence located at \_\_\_\_\_  
 is granted to \_\_\_\_\_  
 to the exclusion of the respondent, who shall not enter it even with the consent of any of its inhabitants.  
 This order does not affect title to property.

Any violation of paragraphs 1 or 2 of this Order of Protection constitutes a CLASS A MISDEMEANOR and subjects the respondent to immediate arrest, provided s/he has been served notice or has actual knowledge of this order.

**WILLFUL VIOLATION OF ANY PROVISION OF THIS ORDER CONSTITUTES CONTEMPT OF COURT AND MAY RESULT IN FINE OR IMPRISONMENT.**

**EX PARTE DOMESTIC VIOLENCE ORDER OF PROTECTION**

Case No. \_\_\_\_\_

3. Temporary custody of the minor child/ren \_\_\_\_\_  
\_\_\_\_\_ is awarded to the petitioner, subject to visitation on the following days and times:

Respondent shall pick up and drop the child/ren at: \_\_\_\_\_

4a. The respondent is prohibited from removing the minor child/ren from the jurisdiction of the Court and from concealing them from the parent or person in loco parentis.

4b. The respondent shall appear in Courtroom \_\_\_\_\_ at \_\_\_\_\_ m. on \_\_\_\_\_  
\_\_\_\_\_ with the minor child/ren.

5. The respondent shall not transfer, encumber, conceal, damage, or otherwise dispose of any property  
(LEADS #6) solely or jointly owned by the petitioner, or any other family or household member, except as follows:

\_\_\_\_\_  
\_\_\_\_\_

6. The respondent is further enjoined as follows: \_\_\_\_\_  
(LEADS #10) \_\_\_\_\_  
\_\_\_\_\_

Petitioner, having filed a proper affidavit, shall be permitted to proceed with this claim as a pauper and shall not be required to pay fees for filing, service, transcripts or copies of orders.

The following remedies, requested by the petitioner pursuant to the Illinois Domestic Violence Act, Subsection (c) of Section 2302-8, were denied for the stated reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The hearing for an extension of this Order of Protection will be held on:

Date \_\_\_\_\_ Time \_\_\_\_\_ Courtroom \_\_\_\_\_

This Order was issued on:

Date \_\_\_\_\_ Time \_\_\_\_\_

This Order will expire on:

Date \_\_\_\_\_ Time \_\_\_\_\_

Name \_\_\_\_\_

Attorney for \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Telephone \_\_\_\_\_

ENTER: \_\_\_\_\_

JUDGE

The petitioner, the petitioner's attorney or Clerk of the Court should complete the following information about the respondent so that this order can be entered into the Illinois Department of Law Enforcement's LEADS computer system by the sheriff.

BIRTHDATE	SEX	RACE	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY NUMBER
DISTINGUISHING FEATURES AND ALIAS INFORMATION							DRIVER'S LICENSE

**NOTICE TO RESPONDENT:**

Upon 2 days notice to the petitioner who has obtained an ex parte order, or upon such shorter notice as the Court may prescribe, a respondent who is subject to an ex parte order may appear and move for its dissolution or modification. Any motion for dissolution or modification by the respondent must be supported by affidavit.

STATE OF ILLINOIS

COUNTY OF \_\_\_\_\_

IN THE CIRCUIT COURT OF

— Vs. —

No. \_\_\_\_\_

- Independent Petition
- Criminal Proceeding
- IMDMA Proceeding

File Stamp Here

LEADS #

Respondent's Date of Birth:

**ORDER**

The Court Finds that

- An Ex Parte Domestic Violence Order of Protection was issued on \_\_\_\_\_
- A Domestic Violence Order of Protection was issued on \_\_\_\_\_

THE COURT HAVING JURISDICTION OF THE SUBJECT MATTER, IT IS HEREBY ORDERED THAT:

- 1. An extension of the ex parte Order of Protection is granted and is hereby extended to \_\_\_\_\_ 19 \_\_\_\_\_ at \_\_\_\_\_ m.
- 2. A hearing on the ex parte Order of Protection is set for \_\_\_\_\_ m., on \_\_\_\_\_ 19 \_\_\_\_\_ in Courtroom No. \_\_\_\_\_.
- 3. The ex parte Order of Protection is vacated.
- 4. The Order of Protection previously issued is extended to \_\_\_\_\_ 19 \_\_\_\_\_.
- 5. A hearing on the Order of Protection is set for \_\_\_\_\_ m., on \_\_\_\_\_ 19 \_\_\_\_\_, in Courtroom No. \_\_\_\_\_.
- 6. The Order of Protection is vacated.
- 7.  The ex parte Order of Protection is modified as follows:
  - The Order of Protection is modified as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_

Attorney for \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Telephone Number \_\_\_\_\_

Enter: \_\_\_\_\_

JUDGE

Date: \_\_\_\_\_

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE

COUNTY OF  
JUDICIAL CIRCUIT

MISDEMEANOR

THE PEOPLE OF THE STATE OF ILLINOIS  
PLAINTIFF  
— Vs. —

No. \_\_\_\_\_

File Stamp Here

LEADS #

COMPLAINT

\_\_\_\_\_ complainant, now appears before  
(Complainant's Name Printed or Typed)

The Court and says that

\_\_\_\_\_ has, on or about  
(defendant)

\_\_\_\_\_ at \_\_\_\_\_  
(date) (place of offense)

committed the offense of violation of an Order of Protection in that he  
ex: having knowledge that an Order of Protection was entered by the court, ordering him to refrain from striking, threatening,  
harassing or interfering with the personal liberty of the victim or other family or household member, did in fact knowingly  
violate said Order of Protection, to wit: (recite facts, such as, by striking the victim about the face with his fists...)  
or: having knowledge that an Order of Protection was entered by the court, granting possession of the residence to the victim,  
to the exclusion of the defendant, did in fact knowingly violate said Order of Protection, to wit: (recite facts, such as, by  
entering the premises and remaining thereon...)  
in violation of Chapter 40 Section 2302-8(c)(1) or (c)(2).  
ILLINOIS REVISED STATUTES

\_\_\_\_\_  
(Complainant's Signature)

\_\_\_\_\_  
(Complainant's Address)

\_\_\_\_\_  
(Telephone No.)

STATE OF ILLINOIS )  
COUNTY OF ) ss.

\_\_\_\_\_  
(Complainant's Name Printed or Typed)

being first duly sworn, on oath, deposes and says that s/he has read the foregoing complaint by her/him subscribed and that  
the same is true.

\_\_\_\_\_  
(Complainant's Signature)

Subscribed and sworn to before me \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
(Judge or Clerk)

I have examined the above complaint and the person presenting the same and have heard evidence thereon, and am satisfied  
that there is probable cause for filing same. Leave is given to file said complaint.

Summons issued,  
or  
Warrant issued,

Judge \_\_\_\_\_

Bail set at \_\_\_\_\_

or

Judge \_\_\_\_\_

Bail set at \_\_\_\_\_

Judge \_\_\_\_\_

COMPLAINT FORMS

The following sample forms were developed to gather the pertinent data regarding a police officer's, state's attorney's, and judge's execution of duties under the Illinois Domestic Violence Act. Advocates in each community will have to decide how to best address improper police, state's attorney's, and/or judge's responses. These forms can be used to formally lodge a specific complaint. They can serve as a means to gather full and complete data on incidents of poor responses which can then, as a group, be brought to the attention of police officials, the state's attorney's office, or the presiding judge. Please send copies of all complaint forms to ICADV as well so that a statewide profile can be developed. The address is on each statewide form.

For the police complaint form, a sample of the form used in the City of Chicago regarding the Chicago Police Department is included. A copy of a complaint about Chicago police can be mailed to the Women's Law Project, c/o Legal Assistance Foundation of Chicago, 343 South Dearborn Street, Chicago, Illinois 60604; which in conjunction with the Chicago Metropolitan Battered Women's Network, is gathering information on the police response to domestic violence in Chicago. Copies of these forms can be mailed, as well, to the Illinois Coalition Against Domestic Violence.

To locate the organization accepting police complaints in other areas of the state and for complaints about the responses of state's attorneys, judges, and private attorneys see the sections on Monitoring (Chapter IV, Section E; Chapter V, Section E; Chapter VI, Section E; Chapter VII, Section H). Again, please copy ICADV as well.

COMPLAINT ABOUT LAW ENFORCEMENT

RESPONSE TO A DOMESTIC VIOLENCE CALL

SEND THIS FORM TO: Illinois Coalition Against Domestic Violence  
931 South Fourth Street  
Springfield, Illinois 62703

\*\*\*\*\*

1. Date this form is mailed: \_\_\_\_\_
2. Your Name: \_\_\_\_\_  
(and organization, if any)
3. Signature: \_\_\_\_\_
4. Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Best time to reach: \_\_\_\_\_
5. Abuser's name: \_\_\_\_\_  
Relationship to you: \_\_\_\_\_
6. Place of beating: \_\_\_\_\_ Date: \_\_\_\_\_
7. Date Police\* were called: \_\_\_\_\_ Time: \_\_\_\_\_
8. Time the officer(s) arrived: \_\_\_\_\_
9. Law Enforcement Department which responded: \_\_\_\_\_
10. Officer's name(s) and/or badge number(s):\*\* \_\_\_\_\_  
\_\_\_\_\_
11. Did you have visible injuries? (such as bruises, redness, swelling, cuts, etc.) YES NO  
Describe injuries: \_\_\_\_\_
12. Any other evidence of violence? (such as broken furniture, torn clothing, witnesses, etc.) YES NO  
Describe evidence: \_\_\_\_\_

\* or Sheriff's Department

\*\*IMPORTANT NOTE: Officer's names and/or badge numbers are not always needed in order to file a grievance (unless the incident occurred more than a month ago). However, if you have this information, it can be very helpful.

13. Did you ask the officer(s) to make an arrest? YES NO
14. Did the officer(s) make an arrest? YES NO

If "No", what reason did they give?

- You were married to the abuser
- You had no visible injuries
- Police did not see beating
- Abuser was not present when police arrived
- Said abuser had right to sign cross-complaint
- Other: \_\_\_\_\_

15. Did you need or want transportation to a medical facility or nearby place of safety? YES NO

If "Yes", did the officer(s) arrange or provide it for you? YES NO

16. Did the officer(s) give you a written statement of your rights under the law, at least one social service referral, information on how to press criminal charges, and sign their name and badge numbers? YES NO

17. Did the officer(s) advise you of the importance of preserving evidence? YES NO

18. Did the officer(s) make inappropriate remarks? YES NO

Describe remarks: \_\_\_\_\_

19. Did the officer(s) threaten to arrest you? YES NO

20. Did the officer(s) discourage you from pressing charges? YES NO

If "Yes", how? \_\_\_\_\_

21. Has law enforcement been called before? YES NO

22. Did the officer(s) prepare a police report, ask you if you had been abused previously by the same person, and if you had called the police before? YES NO

23. Have you complained directly to the department involved? YES NO

If "Yes", to whom did you speak? \_\_\_\_\_

Date \_\_\_\_\_ What action resulted? \_\_\_\_\_

24. Other comments: \_\_\_\_\_

COMPLAINT ABOUT A STATE'S ATTORNEY

RESPONSE TO A DOMESTIC VIOLENCE COMPLAINT

SEND THIS FORM TO: Illinois Coalition Against Domestic Violence  
931 South Fourth Street  
Springfield, Illinois 62703

\*\*\*\*\*

1. Date this form is mailed: \_\_\_\_\_
2. Your Name: \_\_\_\_\_
3. Signature: \_\_\_\_\_
4. Address: \_\_\_\_\_ City: \_\_\_\_\_  
Phone: \_\_\_\_\_ Best time to reach: \_\_\_\_\_
5. Abuser's Name: \_\_\_\_\_ Relationship to you: \_\_\_\_\_
6. Place of beating: \_\_\_\_\_ Date: \_\_\_\_\_
7. Were the police called?..... YES NO
8. Was your abuser arrested?..... YES NO
9. Did the police complete a report?..... YES NO  
Number of report: \_\_\_\_\_ Date: \_\_\_\_\_
10. Did you have evidence of the abuse (physical injuries, photographs, medical reports, witnesses, etc.)? Describe: \_\_\_\_\_  
\_\_\_\_\_
11. To whom did you speak at the State's Attorney's Office?  
Name(s) and Title(s): \_\_\_\_\_  
\_\_\_\_\_
12. Did this person discourage you from pressing criminal charges?..... YES NO  
If "Yes", what reasons were given?  
\_\_\_\_\_ You had insufficient evidence  
\_\_\_\_\_ You will drop the charges later anyway  
\_\_\_\_\_ You should think it over for a while  
\_\_\_\_\_ Your abuser will become more angry and abuse you even more

\_\_\_\_\_ You and your children will lose your source of financial support

\_\_\_\_\_ You and your abuser were equally at fault  
(What evidence was this statement based on?) \_\_\_\_\_

\_\_\_\_\_ A peace bond will provide you with all the protection you need

\_\_\_\_\_ Other: \_\_\_\_\_

13. Did this person make inappropriate remarks?..... YES NO  
What were they? \_\_\_\_\_

14. Did you sign a complaint?..... YES NO

15. If yes, was: (a) a summons issued for a court hearing on the charge?..... YES NO

(b) A warrant issued for your abuser's arrest?..... YES NO

16. Were you told about Domestic Violence Order of Protection?..... YES NO

17. Did you ask for an Order of Protection?..... YES NO

If yes, was it requested for you?..... YES NO

If no, what reasons were given?

\_\_\_\_\_ Insufficient evidence

\_\_\_\_\_ Have to request it in Civil Court

\_\_\_\_\_ Your abuser will become angrier and abuse you even more

18. Have you complained to the State's Attorney's Office? YES NO

If yes, to whom did you speak? \_\_\_\_\_

Date: \_\_\_\_\_ What action resulted? \_\_\_\_\_

19. Other comments: \_\_\_\_\_

COMPLAINT ABOUT A JUDGE'S RESPONSE  
IN A DOMESTIC VIOLENCE CASE

SEND THIS FORM TO: Illinois Coalition Against Domestic Violence  
931 South Fourth Street  
Springfield, Illinois 62703

\*\*\*\*\*

1. Date this form is mailed: \_\_\_\_\_

2. Your name: \_\_\_\_\_

3. Signature: \_\_\_\_\_

4. Address: \_\_\_\_\_ City: \_\_\_\_\_

Phone: \_\_\_\_\_ Best time to reach: \_\_\_\_\_

5. Abuser's name: \_\_\_\_\_ Relationship to you: \_\_\_\_\_

6. Place of beating: \_\_\_\_\_ Date: \_\_\_\_\_

7. Were the police called?..... YES NO

8. Was your abuser arrested?..... YES NO

9. Did you sign a complaint to press criminal charges? YES NO

What was the outcome?

- Guilty plea
- Conviction
- Acquittal
- Dismissed
- You decided to drop charges

If a guilty plea or conviction, what sentence was imposed?

- Supervision
- Conditional Discharge
- Probation
- Imprisonment
- Fine
- Other: \_\_\_\_\_

10. Did you request an Order of Protection in conjunction with a criminal proceeding?..... YES NO

In Civil Court?..... YES NO

If yes, was it granted?..... YES NO

If not, what reasons did the judge give?

- Insufficient evidence to determine abuse
- Both you and your abuser were at fault
- Give judge's reasons for this finding: \_\_\_\_\_

11. Did you request in an Order of Protection that your abuser be barred from entering your home (remedy #2)? YES NO  
If yes, was this remedy granted?..... YES NO  
If not, what reasons did the judge give?\*

Was your abuser ordered to provide you with other suitable housing?..... YES NO  
Did you request any other remedies which were denied by the judge?..... YES NO  
If yes, what were they and what reasons did the judge give?\*

12. Did the judge make inappropriate remarks?..... YES NO  
If yes, what were they?

Judge's Name: \_\_\_\_\_  
County: \_\_\_\_\_ Court: \_\_\_\_\_

13. Other comments: \_\_\_\_\_

14. Have you complained to the Illinois Judicial Inquiry Board (which handles complaints about judges' conduct)? YES NO  
If yes, what action has resulted? \_\_\_\_\_

\*The Illinois Domestic Violence Act requires the judge to state in writing on an Order of Protection why any remedies requested were denied.

CHICAGO POLICE DEPARTMENT  
COMPLAINT REGARDING POLICE  
RESPONSE TO BATTERED WOMAN CALL

For assistance in completing this form, contact AVIVA FUTORIAN at the LEGAL ASSISTANCE FOUNDATION OF CHICAGO, 341-1070.

SEND COMPLAINT TO: WOMEN'S LAW PROJECT  
c/o Legal Assistance Foundation  
343 South Dearborn Street  
Chicago, Illinois 60604

1. DATE COMPLAINT MAILED: \_\_\_\_\_
2. COMPLAINT FORM COMPLETED BY: \_\_\_\_\_ PHONE \_\_\_\_\_  
(name, organization, if any)

SIGNATURE: \_\_\_\_\_

\*\*\*\*\*

3. Your Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Best time to Reach Relationship to you: \_\_\_\_\_
4. Batterer's Name \_\_\_\_\_
5. Place of incident (beating): \_\_\_\_\_ Date: \_\_\_\_\_
6. Date police were called: \_\_\_\_\_ Time: \_\_\_\_\_
7. Officer's name(s) and/or badge number(s)\*: \_\_\_\_\_

8. Did you have an Order of Protection when police were called?..... YES NO
9. Were you living with batterer when police were called?..... YES NO
10. Did you have visible injuries?... (e.g., bruises, redness, swelling, cuts, etc.) YES NO

DESCRIBE INJURIES: \_\_\_\_\_

11. Any other evidence of violence?..... (e.g., broken furniture, torn clothing, witnesses, etc.) YES NO

IF SO, DESCRIBE: \_\_\_\_\_

\*IMPORTANT NOTE: Officer's names and/or badge numbers are NOT needed in order to make a complaint (unless the incident occurred more than a month ago). However if this information is available, it can be very helpful.

12. Did you ask police to make an arrest?..... YES NO
13. Did police make an arrest?..... YES NO

If "No", what did they say was the reason they refused to arrest him?

- Victim married to batterer
- Police said you had no visible injuries
- Police did not see beating
- Batterer was not present when police arrived
- Police said batterer had right to sign cross-complaint
- Other: \_\_\_\_\_

14. Did police make inappropriate remarks?..... YES NO

DESCRIBE REMARKS: \_\_\_\_\_

15. Did the police threaten to arrest you?..... YES NO

16. Were you referred to the Warrant Office to file a complaint?..... YES NO

17. Were you given the "Victim Rights Information Sheet?":..... YES NO

18. Did you feel the police discouraged you from pressing charges?..... YES NO

If "Yes", How? \_\_\_\_\_

19. Did police prepare a police report?..... YES NO

20. What was the number (RD number) of the report (if you know)?: \_\_\_\_\_

21. Did they tell you to see a lawyer and go to civil court?..... YES NO

DESCRIBE INCIDENT: \_\_\_\_\_

CHICAGO POLICE DEPARTMENT

COMPLAINT REGARDING POLICE  
RESPONSE TO BATTERED WOMAN CALL

Please send these forms along with your Log Sheets by the last week of each month.

1. Woman's Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_
2. Batterer's Name: \_\_\_\_\_ Relationship: \_\_\_\_\_
3. Place of Incident (beating): \_\_\_\_\_
4. Date of Incident: \_\_\_\_\_
5. Date police were called: \_\_\_\_\_ Time: \_\_\_\_\_
6. Officer's name(s) and/or badge number(s) \_\_\_\_\_
7. Did she have an Order of Protection when police were called? \_\_\_\_\_
8. Was she living with batterer when the police were called? \_\_\_\_\_
9. Did she have visible injuries? e.g., bruises, redness, swelling, cuts, etc. \_\_\_\_\_
10. Describe the injuries: \_\_\_\_\_
11. Any other evidence of violence? e.g., broken furniture, torn clothing, witnesses, etc. \_\_\_\_\_
12. If "Yes" to 11, please describe: \_\_\_\_\_  
\_\_\_\_\_
13. Did you ask police to make an arrest? \_\_\_\_\_
14. Did police make an arrest? \_\_\_\_\_
15. If no arrest was made what did the police say was the reason they refused to arrest him?  
\_\_\_\_ Victim married to batterer  
\_\_\_\_ Police said she had no visible injuries  
\_\_\_\_ Police did not see beating

\_\_\_\_ Batterer was not present when police arrived

\_\_\_\_ Police said batterer had right to sign cross-complaint

\_\_\_\_ Other: \_\_\_\_\_

16. Did police make inappropriate remarks? \_\_\_\_\_

17. Did the police threaten to arrest her? \_\_\_\_\_

18. Was she given the "Victim Rights Information Sheet"? \_\_\_\_\_

19. Did she feel the police discouraged her from pressing charges? \_\_\_\_\_

If "Yes", how? \_\_\_\_\_

\_\_\_\_\_

20. Did police prepare a police report? \_\_\_\_\_

21. Did the police tell her to see a lawyer and go to civil court? \_\_\_\_\_

\_\_\_\_\_

22. Give general description of the incident: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

LEGAL RESOURCES

Legal Assistance Foundation of Chicago

Neighborhood Offices:

Englewood  
6401 S. Halsted  
Chicago, IL 60621  
312/651-3100

Lawndale  
911 S. Kedzie  
Chicago, IL 60612  
312/638-2343

Mid-South  
4655 S. Michigan  
Chicago, IL 60653

Northwest  
1212 N. Ashland  
Chicago, IL 60622  
312/489-6800

Pilsen  
1661 S. Blue Island  
Chicago, IL 60608

Uptown  
4753 N. Broadway  
Chicago, IL 60640  
312/769-1015

Central Office and Divorce Division:

343 S. Dearborn  
Chicago, IL 60604  
312/341-1070

Legal Aid Bureau  
United Charities of Chicago  
14 East Jackson Blvd.  
Chicago, IL 60604  
312/922-5625

Cook County Legal Assistance Foundation  
serves suburban Cook County outside city  
limits

Evanston Area  
828 Davis  
Evanston, IL 60201  
312/475-3703

Harvey Area  
15325 S. Page  
Harvey, IL 60426  
312/339-5550

River Forest Area  
7777 W. Lake  
River Forest, IL 60305  
312/771-2100

YWCA/Chicago Bar Association Battered  
Women's Legal Program  
Loop Center YWCA  
37 South Wabash  
Chicago, IL 60603  
312/372-6600

Pro Bono Advocates  
220 South State  
Chicago, IL 60604  
312/939-4971 or 5797

Chicago Volunteer Legal Services  
Foundation  
19 South LaSalle  
Chicago, IL 60603  
312/332-1624

Mandel Legal Aid Clinic  
University of Chicago  
6020 S. University  
Chicago, IL 60637  
312/324-5181

LEGAL RESOURCES, con't

Northwestern Legal Assistance Clinic  
Northwestern University Law School  
339 E. Chicago Ave.  
Chicago, IL 60611  
312/649-8576

Loyola Legal Services  
Loyola University School of Law  
1324 W. Devon  
Chicago, IL 60660  
312/465-7500

Legal Services Center  
Chicago Kent College of Law  
77 S. Wacker Drive  
Chicago, IL 60606  
312/567-5050

Will County Legal Servs.  
68 N. Chicago - Suite 229  
Joliet, IL 60431  
815/727-5123

Prairie State Legal Servs. Inc.  
104 W. Willow  
Wheaton, IL 60187  
312/690-6900

Prairie State Legal Servs., Inc.  
224 Main Street  
Woodstock, IL 60098  
815/338-7721

Prairie State Legal Services Inc.  
416 Main Street, Suite 1100  
First National Bank Bldg.  
Peoria, IL 61602  
800/322-2280

Prairie State Legal Services, Inc.  
380 South Schmale Road  
Carol Stream, IL 60187

Prairie State Legal Servs. Inc.  
613 LaSalle Street  
Ottawa, IL 61350  
800/892-7880

Prairie State Legal Servs. Inc.  
630 - 9th Street  
Rock Island, IL 61201  
800/322-9804

Prairie State Legal Servs. Inc.  
4 South Genesee Street  
Waukegan, IL 60085  
312/662-6925

Prairie State Legal Servs. Inc.  
111 North Third Street  
Geneva, IL 60134  
312/462-7600

Prairie State Legal Servs. Inc.  
241 East Court Street  
Kankakee, IL 60901  
815/935-2750

Prairie State Legal Servs. Inc.  
The Griesheim Bldg., Suite 500  
219 North Main Street  
Bloomington, IL 61701  
309/827-5021

Prairie State Legal Servs. Inc.  
800 Rockford Trust Bldg.  
206 W. State Street  
Rockford, IL 61101  
815/965-2134

Land of Lincoln Legal Assistance  
Foundation Inc.  
327 Missouri Ave. Suite 300  
E. St. Louis, IL 62201  
618/ 271-9140

LEGAL RESOURCES, con't

Land of Lincoln Legal Assist.  
Foundation Inc.  
413 East Broadway  
Alton, IL 62002  
618/451-8050

Land of Lincoln Legal Asst.  
Foundation, Inc.  
1212 Main Street  
Mt. Vernon, IL 62764  
618/244-0235

Land of Lincoln Legal Asst.  
Foundation, Inc.  
205 West Main  
Carbondale, IL. 62901  
618/457-4188

Land of Lincoln Legal Asst.  
Foundation, Inc.  
2021 Washington Avenue  
Cairo, IL 62914  
618/734-3125

Land of Lincoln Legal Asst.  
Foundation, Inc.  
202 W. Hill Street  
P.O. Box 278  
Champaign, IL 61820  
217/356-1351

Land of Lincoln Legal Assistance  
Foundation, Inc.  
504 E. Monroe - Suite 1020  
P.O. Box 2206  
Springfield, IL 62701  
217/753-3300

Land of Lincoln Legal Assistance  
Foundation, Inc.  
1420 Wabash  
P.O. Box 732  
Mattoon, IL 61938  
217/235-4063

Land of Lincoln Legal Assistance  
Foundation, Inc.  
WCU Building  
511 N. Main St., Room 322  
Quincy, IL 62301  
217/224-8917

Land of Lincoln Legal Assistance  
Foundation, Inc.  
119 West Williams Street  
Decatur, IL 62523  
217/423-0516

West Central IL Legal Assistance  
P.O. Box 1232  
Galesburg, IL 61401  
309/343-2141

West Central IL Legal Assistance  
P.O. Box 129  
Canton, IL 61520  
309/647-4547

SHELTERS AND SERVICES

The following is a list of shelters and non-shelter domestic violence programs that are members of the Illinois Coalition Against Domestic Violence. In some communities in the state there are shelters or other services available to the victims of domestic violence and their families that are not members of the Illinois Coalition Against Domestic Violence. To locate them check with your local family service, community mental health, or human services agency. If there is a social service directory in your area consult it, or the telephone directory.

**Illinois Coalition Against Domestic Violence**  
 931 South Fourth Street  
 Springfield, Illinois 62703  
 217/789-2830



**ALEDO**  
 Mercer County CADV  
 309/582-7233 (day/evening)

**ALTON**  
 Oasis Women's Center  
 618/465-1978

**AURORA**  
 Mutual Ground  
 312/897-0080

**BELLEVILLE**  
 Women's Crisis Center  
 618/235-0892

**BLOOMINGTON**  
 YWCA of McLean County —  
 Countering Domestic and  
 Sexual Violence  
 800/322-5015  
 309/827-4005

**CAIRO**  
 Community Health Services —  
 Cairo Women's Shelter  
 618/734-HELP

**CANTON**  
 Fulton County Women's  
 Crisis Service  
 309/647-8311

**CARBONDALE**  
 Women's Center  
 618/529-2324

**CENTRALIA**  
 Call For Help/Women In Need  
 618/533-SAFE

**CHARLESTON**  
 Coalition Against Domestic  
 Violence  
 217/345-4300  
 217/235-4300

**CHICAGO**  
 Chicago Abused Women  
 Coalition  
 312/278-4566  
 Chicago Department of  
 Human Services  
 312/744-5829  
 Family Rescue  
 312/375-8400

Loop YWCA — Women's  
 Services  
 312/372-6600 (office)  
 Neopolitan Lighthouse  
 312/248-9261

Rainbow House/Arco Iris  
 312/521-4865

Southwest Women Working  
 Together  
 312/436-0550 (office)

Travelers & Immigrants Aid  
 312/889-6611 (day/evening)  
 312/686-7562 (night/weekend)

Uptown Center Hull House —  
 Family Violence Task Force  
 312/561-3500 (day)  
 312/769-0205 (night/weekend)

**CLAY CITY**  
 Stopping Woman Abuse Now  
 618/676-1911

**DANVILLE**  
 Danville YWCA/Woman's  
 Alternative Shelter  
 217/443-5566

**DECATUR**  
 DOVE Domestic Violence  
 Project  
 217/423-2238

**DE KALB**  
 Safe Passage  
 815/756-2228

**DES PLAINES**  
 Life Span  
 312/824-4454

**DIXON**  
 Sterling-Rock Falls YWCA —  
 COVE  
 815/288-1011

**EAST ST. LOUIS**  
 Women's Crisis Center  
 618/398-8540

**ELGIN**  
 Community Crisis Center  
 312/697-2380

**EVANSTON**  
 Evanston YWCA  
 312/864-8780

**FREEPORT**  
 YWCA of Freeport  
 815/235-9421 (day)  
 815/233-HELP (night/weekend)

**GLEN ELLYN**  
 Family Shelter Service  
 312/469-5650

**HAZEL CREST**  
 South Suburban Family  
 Shelter  
 312/335-3028

**JACKSONVILLE**  
 Women's Crisis Center  
 217/243-4357

**JOLIET**  
 Guardian Angel Home  
 815/722-3344

**KANKAKEE**  
 Kankakee County Coalition  
 Against Domestic Violence  
 815/932-5800

**OAK PARK**  
 Sarah's Inn  
 312/386-4225

**PEORIA**  
 Tri-County WomenStrength  
 309/674-4443

**PRINCETON**  
 Freedom House  
 815/875-8233

**QUINCY**  
 Quincy Area Network Against  
 Domestic Abuse  
 217/222-2873

**ROCHELLE**  
 HOPE of Rochelle  
 815/562-8890

**ROCKFORD**  
 WAVE/PHASE  
 815/962-6102

**ROSICLARE**  
 Anna Bixby Women's Center  
 618/252-8389

**SPRINGFIELD**  
 Sojourn Women's Center  
 217/544-2484

**STERLING**  
 Sterling-Rock Falls YWCA —  
 COVE  
 815/626-7277

**STREATOR**  
 Against Domestic Violence  
 800/892-3375

**SUMMIT**  
 Des Plaines Valley  
 Community Center  
 312/485-5254

**URBANA**  
 A Woman's Place  
 217/384-4390

**WAUKEGAN**  
 A Safe Place  
 312/249-4450

**WOODSTOCK**  
 Turning Point  
 815/338-8080

**WORTH**  
 Crisis Center for South  
 Suburbia  
 312/974-1791

**Unless otherwise indicated, all numbers listed are 24-hour crisis lines.**

RESOURCES FOR BATTERING MEN

Some shelters, domestic violence programs, and social service agencies have begun to offer specialized services to battering men, and in different parts of the country men have formed their own organizations to work with battering men, such as Raven in St. Louis.

The following is a partial listing:

Raven  
P.O. Box 24159  
St. Louis, MO 63130

ACT (Abusers Changing Themselves),  
c/o Emerson House  
645 North Wood  
Chicago, IL 60622  
312/421-3551

United Charities of Chicago  
Family Service Bureau  
14 East Jackson Blvd.  
Chicago, IL 60604  
312/461-0800

The ICADV member programs listed below also provide services to battering men. See the previous page for their telephone numbers.

Chicago

Rainbow House c/o Southwest  
Women Working Together (program  
developing)

Decatur

DeKalb (program developing)

Elgin

Freeport

Glen Ellyn

Joliet

Guardian Angel Home (program developing)

Rockford

Streator

Woodstock

Worth

RESOURCES FOR BATTERING MEN, Con't

Because of the dangerous and often life threatening nature of domestic violence special consideration of the implications of the abuser participating in counseling is advised. An excellent discussion of these implications is reprinted below from Survival: A Handbook for Battered Women<sup>3</sup>. It is written for the abused woman, but advocates should discuss the points with abused women whose batterer may be entering or referred to counseling.

HELP FOR THE BATTERER

Your partner may offer, or may be advised, to seek the help of a therapist or counselor.

We advise you to make plans for your protection, independent of any counseling he receives. If you want to give him or the relationship another chance, we suggest you do so only after you see a lasting change in his behavior.

You should consider that:

1. Battering and abuse usually gets worse unless some action is taken to stop the violence.
2. It may take up to one year or more of committed work on the batterer's part to change his abusive behavior.
3. Any treatment for drug or alcohol abuse should also include treatment for violent and abusive behavior and protection for the victim.
4. Emotional and sexual abuse must also be dealt with in counseling for batterers.
5. It is often best that partners live separately while the batterer works on his violent behavior. Couples counseling works best after the danger and all threats of violence or abuse have been eliminated.
6. Counseling should be seen as an alternative to legal action only for first offenses when the batterer is committed to changing his violent behavior. If this option is chosen, it is crucial to establish a method of reporting attendance and progress in counseling as well as any new violence to legal staff. You have a right to pursue legal action while he gets counseling help. There is no assurance that counseling will stop the abuse.

HELP FOR THE BATTERER, Con't

7. Consider the effect on your children of living with violence in your home. They may need counseling help to prevent or deal with the effects of violence or abuse.

VIOLENCE IS NOT AN ACCEPTABLE WAY TO DEAL WITH ANGER, STRESS, OR ECONOMIC OR RELATIONSHIP PROBLEMS. VIOLENCE IS LEARNED AND CAN BE UNLEARNED AND REPLACED WITH CONSTRUCTIVE ALTERNATIVES.

OTHER RESOURCES

Advocates working with abused women may find the women have other special needs, or by virtue of the advocates' association with a place that helps women may find that women with other problems request their help. Two areas of concern that may be especially pertinent are displaced homemakers and rape or sexual assault. Listed below are Displaced Homemaker Centers established through the Displaced Homemaker Assistance Act of 1977 and associated with the Illinois Department of Commerce and Community Affairs, and members of the Illinois Coalition Of Women Against Rape.

DISPLACED HOME MAKER CENTERS

1. Carbondale Women's Center  
404 West Mill  
Carbondale, IL 62901  
Contact: Kathy Gyure  
618/529-2412
2. Sangamon State University  
CC 150 D  
Springfield, IL 62708  
Contact: Rita Davis  
800/ 252-8969
3. McLean County CETA  
201 East Grove  
Bloomington, IL 61701  
Contact: Dixie Lewis  
309/828-0049 or  
827-4026
4. Community Service Council of  
Northern Will County  
375 W. Briarcliff  
Bolingbrook, IL 60439  
Contact: Gloria Hollister  
312/759-0520
5. YWCA-WEST  
1 South Park  
Lombard, IL 60148  
Contact: Pat Ruzickd  
312/629-0170
6. Southwest Women Working Together  
3201 W. 63rd Street  
Chicago, IL 60629  
Contact: Judith Sedaitis  
312/436-0550
7. Chicago City-Wide Colleges  
185 N. Wabash, 8th Floor  
Chicago, IL 60601  
Contact: Carol White  
312/977-2538
8. YWCA  
445 N. Genesee Street  
Waukegan, IL 60085  
Contact: Cindy Perrigo  
312/662-4247

DISPLACED HOMEMAKER CENTERS - Con't

- |  |   |
|--|---|
| 9. Harper College<br>Algonquin and Roselle Rds.<br>Palatine, IL 60067<br>Contact: Rena Trevor<br>312/397-3000 X 560                                    | 13. Women's Alliance<br>1011 N. Sixth Street<br>Springfield, IL 62702<br>Contact: Joni Brooks<br>217/753-1613 |
| 10. Regional Office of Education<br>Boone and Winnebago Counties<br>712 Courthouse Bldg.<br>Rockford, IL 61101<br>Contact: Ada Johnson<br>815/987-3060 | 14. Olney Central College<br>Olney, IL 62450<br>Contact: Dorothy Voyles<br>618/395-4351 X 212                 |
| 11. Richland Community College<br>2425 Federal Drive<br>Decatur, IL 62526<br>Contact: Kathy Sorensen<br>217/875-7200 X 287                             |   |
| 12. Black Hawk College<br>6600 34th Avenue<br>Moline, IL 61265<br>Contact: Joe Dockery-Jackson<br>309/796-1311 X 377                                   |   |

RAPE CRISIS CENTERS AND PROGRAMS

URORA  
Fox Valley Men and Women Against Rape  
31 W. Downer - Aurora, IL 60506  
312/898-4490

LOOMINGTON  
McLean County Rape Crisis Center  
P.O. Box 995 - Bloomington, IL 61701  
309/827-4005 hotline

ARBONDALE  
Rape Action Crisis Go-Out Team  
The Women's Center, Inc.  
408 W. Freeman - Carbondale, IL 62901  
618/529-2324 hotline

CHICAGO  
Rape Victim Advocates  
P.O. Box 11537 - Chicago, IL 60611  
312/883-5688 business

Women's Services, Loop Center YWCA  
37 S. Wabash - Chicago, IL 60603  
312/372-6600 Ext. 61 business

DECATUR  
Rape Task Force  
DVP  
104 W. Prairie St. - Decatur, IL 62522  
312/423-2238 hotline

WEST PLAINES  
Northwest Action Against Rape  
P.O. Box 508  
Prairie View, IL 60069  
312/228-6400 hotline

ST. LOUIS  
St. Mary's Rape Crisis Service  
St. Mary's Hospital  
29 N. 8th - East St. Louis, IL 62201  
314/271-7273 hotline

EDWARDSVILLE  
Rape and Sexual Abuse Care Center  
Southern Illinois University  
Box 154 - Edwardsville, IL 62234  
618/692-2197 hotline

KANKAKEE  
Rape Task Force of Kankakee County, Inc.  
P.O. Box 1992 - Kankakee, IL 60901  
815/935-7529

LOMBARD  
DuPage Women Against Rape  
YWCA West Suburban Area  
1 South Park - Lombard, IL 60148  
312/971-DWAR hotline

MATTOON-CHARLESTON  
Coles County Women Against Rape  
174 Lantz - Charleston, IL 61920  
217/235-4179 or 217/345-2162 hotlines

MOLINE  
Quad Cities Rape/Sexual Assault Counseling  
Program  
1417 6th Ave. - Moline, IL 61265  
309/797-8108 hotline

PARK FOREST  
YW C.A.R.E.S.  
Committee Against Rape: Emergency Ed. Servs.  
South Suburban Area YWCA  
300 Plaza, Suite 3 - Park Forest, IL 60466  
312/748-5672 business

PEORIA  
Tri-County Women Strength  
P.O. Box 614 - Peoria, IL 61652  
309/674-4443 hotline

ROCKFORD  
Rockford Rape Counseling Center  
P.O. Box 4027 - Rockford, IL 61110  
815/964-2991 hotline

SPRINGFIELD  
Rape Information and Counseling Service  
1011 N. 6th St.-Springfield, IL 62702  
217/753-8081 hotline

URBANA  
Rape Crisis Service  
Women's Fund, Inc.  
505 W. Green - Urbana, IL 61801  
217/384-4444 hotline

ILLINOIS COALITION OF WOMEN AGAINST RAPE  
1011 N. 6th - Springfield, IL 62702 - 217/753-4117

HOSPITAL PROTOCOL

The following hospital protocol was developed by the Chicago Metropolitan Battered Women's Network in conjunction with the Chicago Hospital Council. Advocates may find it a useful guide to what should be standard hospital procedure for treatment of abused women. When an advocate is working with a woman who needs to go to the hospital she can brief her on what to expect and request. As noted in Chapter VIII, community education includes training of hospital personnel. The protocol can serve as a good base for conducting training. Advocates and local domestic violence programs may wish to work with sympathetic hospital representatives to have the hospital officially adopt the protocol as their policy and procedure.

Local programs should develop their own resource referral listing and legal rights information sheet (utilizing the information in this manual) to attach to the protocol and to be given out to abused women who are seen at the hospital.

## BATTERED WOMAN HOSPITAL PROTOCOL

In response to mounting public concern around the issue of domestic violence, especially battered women, the following protocol has been written. The protocol is to be used by the emergency room (ER) team to help it detect and assist battered women. Identification of battered women by emergency medical staff is critically important because many battered women's first encounter with helping professionals is an emergency room visit.

The battered woman comes to the emergency department both physically and emotionally wounded. Although she comes to the emergency department for immediate treatment of her injuries she often needs social/psychological assistance in coping with or leaving the abusive environment. To concentrate solely on the medical needs of this individual will mean that she will likely return to the emergency department, perhaps with more serious injuries. Homicide statistics indicate unless she gets help she or her abusive mate may return dead on arrival.

Battered women are found in every ethnic, religious, social, economic and age group. They may come from different backgrounds but the feelings of fear, shame, guilt, anger, and embarrassment over their beatings are universal. The battered woman's feelings of frustration and fear are often overwhelming and the issues of where to turn for assistance (if she decides she wants it) is bewildering and confusing. For these reasons, sensitivity and compassion to battered women who come to the emergency department are extremely important.

The following material is presented to better the emergency room teams' understanding of battered women. The material will also assist in the direct treatment of her physical and psychological needs.

COMMON QUESTIONS ASKED ABOUT THE BATTERED WOMAN

Question: Why do battered women stay?

Answer: There are many reasons battered women may stay in an abusive relationship. Some of these are:

- . financial restrictions, her inability to support herself and children on a severely lowered income;
- . emotional ties and attachments, hope the violent relationship will change;
- . concern for the welfare of the children (children need fathers);
- . fear of leaving and the concomittant abuse;
- . few safe places to go;
- . low self-esteem and the resulting paralysis; and
- . family and social pressure to make the marriage work.

Question: Are battered women masochists, do they enjoy being beaten?

Answer: Masochists are people with many options who consistently choose the one most painful. Battered women have few options and most often have tried multiple strategies for stopping abuse. They may in fact love the man who beats them, not because he beats them, but in spite of his violence. Masochists are neurotic and are led by their neurosis to 'choose' pain. Battered women are as sane as you or I, and do not choose to be beaten.

Question: Are battering men always violent?

Answer: No, they can at times be tender, loving and remorseful. These behavioral changes can and often do ensnare the woman into believing the relationship will change.

**Question:** Is the battered woman only physically abused?

**Answer:** No, in addition to being physically assaulted she is psychologically abused. Told by her mate that she is repulsive, worthless, incompetent, and isolated by his often irrational and violent jealousy, this woman may have no outside contact, no outside rebuttal to the insults or support for her self-worth. Consequently, the battered woman may begin to believe his devastating accusations. Her self-esteem plummets.

**Question:** Do battered women provoke the abuse?

**Answer:** No. No one deserves to be beaten - no matter how verbally aggressive they may be. The man's behavior is his choice, his own responsibility. The woman cannot and should not be held responsible for the man's violence.

**Question:** Why don't battered women try to stop the violence, seek help or leave?

**Answer:** Battered women do seek help. A study showed that women who had been struck once a month or more often had either obtained a divorce or separation, called the police or gone to a social agency. However, many of these helping professionals are not properly trained to assist the battered woman.

**Question:** Why should minor injuries be of concern to the health care providers?

**Answer:** Even a minor assault is a crime. No one has a right to hit another person, even once. In addition, since many violent relationships start with minor abuse which then escalates, it is important to offer help as early in the relationship as possible. Certainly a woman should not have to wait until the abuse is severe before she receives help.

**Question:** Does abuse cause serious injury?

**Answer:** The injuries resulting from the abuse are often very severe. These injuries include black eyes, broken arms, noses and ribs, stab wounds, ruptured spleens, severe bruising and a wide range of lacerations severe enough to need stitching. The violence escalates. According to FBI statistics one-quarter of all murders in the United States are between family members;

one-half of these (12.5%) are between husband and wife. Although the victims are divided almost equally between husband and wife, a 1969 Tort Commission on Violence reported that women who kill are motivated by self defense seven times as often as men.

Question: Do battered women have personality disorders that cause them to seek battering relationships?

Answer: No. However, battered women may display psychopathological problems, suicidal tendencies, anxiety, depression, and crippling low self-esteem by the time they reach ER, but these are most commonly an affect of victimization, not a cause.

Question: Are shelter resources for battered women adequate?

Answer: No. There are very few places for women to go for safety. The number is appallingly small, especially when FBI statistics show that a woman is beaten every 18 seconds. Since the number of shelters for women is so small and the number of women who need the service is so large, the few existing shelters are always full to capacity. Consequently, there are always more women and children who need a safe place to go than there are women and children who find safe places.

Question: Isn't woman abuse a private family matter and of no concern to others in society?

Answer: Crime is society's concern whether in or out of the family. Moreover, society can ill afford to tolerate the victimization of family members. While the violence may not occur in all families, the effects go far beyond the members involved. The statistics below show that the beating of women permeates our society. When a problem is so widespread, it becomes a social problem.

- . 45% of all assault and battery cases in the United States are by husbands against wives (Flemming, 1979).
- . approximately 28 million women in the United States are battered (R. Langley, Wife Beating: The Silent Crisis. testimony before the New York State Legislature in April, 1977).

- . approximately one-half of all married women in the United States suffer from some form of physical abuse by their husbands (L. Walker).

Question: What effect does the violence have on children?

Answer: A woman may stay in a violent relationship for the children's benefit but it has been shown that "frequently women in abusive situations become more motivated to seek help at the point where the violence is extended to their children." (Flemming, 1979). Statistics show that children do not derive any advantage from remaining in a violent home.

- . 54% of the husbands in one study who beat their wives also beat their children (Flemming 1979).
- . The Child Protection Program in Milwaukee County Wisconsin estimates that there is a battered woman in 1 of every 3 referrals of a battered child (Flemming, 1979).
- . Children frequently become accidental victims of wife assault when they attempt to stop a fight or protect their mother (Flemming, 1979).
- . Of the victims who contacted Ann Arbor NOW Domestic Violence Project, 33.3% had witnessed violence between their parents. Of the assailants, 49.1% had witnessed such violence (Flemming, 1979).

These statistics reveal a pattern and a cycle of abuse. Children in abusive homes begin to believe that violence is an acceptable problem-solving behavior and may become abusers themselves. We must begin to direct our actions toward "breaking the cycle." Violent homes are not worth preserving.

Those of us in the helping professions must no longer avert our eyes in the name of family unity, or accept false diagnoses (she walked into a door) in the name of social decorum.

### LEGAL REPORTING REQUIREMENTS

206.3.1 Notification of Treatment of Firearm Injury and Injury Sustained in Commission of or Received from Criminal Offense.

3.2 It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person, who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

1. any injury resulting from the discharge of a firearm; or
2. any injury sustained in the commission of/or as a victim of a criminal offense.

Any hospital, physician or nurse, shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this section. (Added by P.A. 77-1424, #1, eff. Sept. 2, 1971, Illinois Criminal Law, Chapter 38, #206-3.2, 1979).

Battery is a criminal offense regardless of the relationship between the assailant and the victim. Health professionals are required to report the incident to the law enforcement officials. Staff should also inform the woman of her legal rights to press charges but should not coerce the woman into doing so.

### MANAGEMENT OF BATTERED WOMAN IN THE EMERGENCY DEPARTMENT

A team of a physician, a nurse and a social worker should be available, if possible. Female nurses or physicians are often helpful in obtaining information from women abused by men. Much of the historical data can be acquired in advance of the physician's exam. If the social worker is not immediately available, their involvement for counseling and follow-up should be arranged before the patient is discharged from the Emergency Department no matter what her destination is.

- I. Have a high index of suspicion: Battered women rarely admit the source of their injury. Be suspicious when: the injuries sustained are not likely to be caused by the accident reported; the woman presents one or more days after the injury; X-ray evidence shows old and new frac-

tures in different states of healing; there are repeat visits with injuries becoming more severe as frequency of visits increases; over-protective mate is present who doesn't want the woman to be alone with the professional; child abuse is found; the pregnant patient miscarries.

Injuries sustained through trauma:

1. Injuries to head and neck are the most common: Peri-orbital hematoma, fractured manible, nasal fractures, perforated tympanic membrane, lacerations around the eyes and lips, contusions and soft tissue injuries, and injuries above the hairline.
2. Injuries to breasts and broken ribs (usually from kicking).
3. Arm injuries (fractures from warding off blows to the head or from pulling and twisting).
4. Strangulation, bilateral carotid compression and resulting bruises.
5. Back injuries from being thrown, pushed or kicked.
6. Injuries to abdomen during pregnancy and miscarriage as a result of trauma are particularly common.

Complications which arise from the battered woman syndrome:

1. Anxiety, nervousness, difficulty sleeping
2. Depression
3. Prescription drug abuse
4. Alcohol abuse
5. "Hysterical, neurotic or hypochondriacal complaints"
6. Suicide attempts

- II. Maintain a helping approach: Know the common questions asked about battered women and their answers. Take the battered woman seriously and respect her. Reinforce her capacity to help herself. Do not treat her as just another routine case. Make all questions as non-threatening as possible. When she is told that violence is a common problem and she is not alone in her experience it helps her to be put at ease.

- III. Maintain privacy: Women should be interviewed and examined alone. All questions should be asked when the women are alone and husbands, boyfriends, etc. are not within hearing distance.
- IV. Obtain the history firsthand: Record time and place of interview. Record the history and description of the battering incident in the woman's own words. Inquire about prior assaults. Note affective behavior (describe, do not judge).
- V. Physical exam: Describe the injuries accurately and completely. (Remember the record of your assessment may become evidence in a trial.) The physical exam should include the assessment and treatment of all lacerations, broken bones, severe and minor bruises, and affective behavior. (Indicate injuries on woman anatomy outline.)
- VI. Ask about the abuse: A woman may volunteer that she has been beaten only after first giving the story of "walking into a door or falling down the stairs", or "I'm accident prone." Direct questioning of the victim as to whether or not a friend or husband has beaten her often leads to more accurate responses. If it does not, the fact that you showed the concern at that time, and that you think it is a possibility, will make a deep impression. It may help her to decide to seek help later, even if she is not ready when you first see her.

The following is an example of the type of questions which may be asked of a woman suspected of being beaten. They may elicit whether a woman has been beaten and to what extent.

The staff person asking the questions should not feel they are intruding into a private world. The battered woman needs help, and you may be the first person who seems interested in her welfare.

It is, of course, important to ask the questions in your own words and in a non-judgmental manner.

**EVERY WOMAN, AT SOME POINT MUST BE ASKED DIRECTLY IF THEIR INJURIES ARE A RESULT OF BEATING.**

1. Is there trouble at home?

Whether the answer is Yes or No, ask the following question:

2. Are you being beaten?

If she responds NO

She may not be a battered woman, her injuries may have resulted from an accident, or from an assault by a stranger.

She may hesitate to acknowledge the situation because she fears for her safety.

She may be embarrassed, feel uncomfortable, even blame herself for the abuse and be unwilling to admit it is occurring.

She may have asked for help in the past, found it ineffective and decided it only endangers her further.

She may not see herself as an "abused woman" hoping it is an exceptional situation, not a pattern of increasing violence.

She may assume that battery is her lot in life, an expected, although dismal, component of any relationship.

In these situations, your only recourse is to state: "Please let me give you this referral sheet for services you may wish to contact at some later point." You cannot force the woman to accept the information.

If she says YES, that there is trouble at home, but she is not being beaten, explain to her that the referral sheet that you are giving her could help with such problems as drinking, drugs, marital and other problems she may have at home.

If she responds YES, she is being beaten, then ask her if she would like to see a social worker. If she wants to see a social worker or not, ask the following assessment questions and give her the battered woman referral list.

How frequent are the beatings?

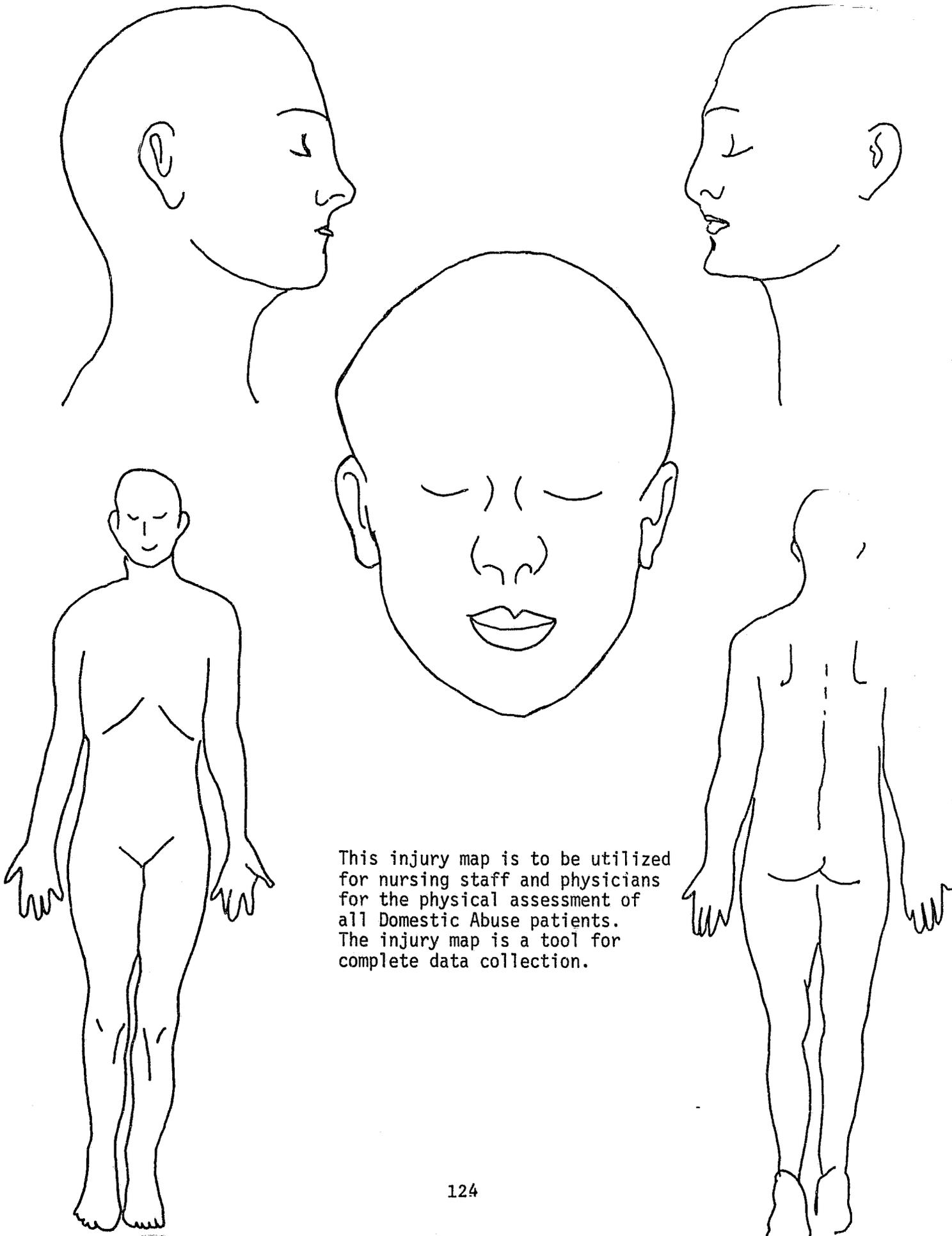
Have the beatings become more intense?

Are the beatings lasting longer?

Are you pregnant?

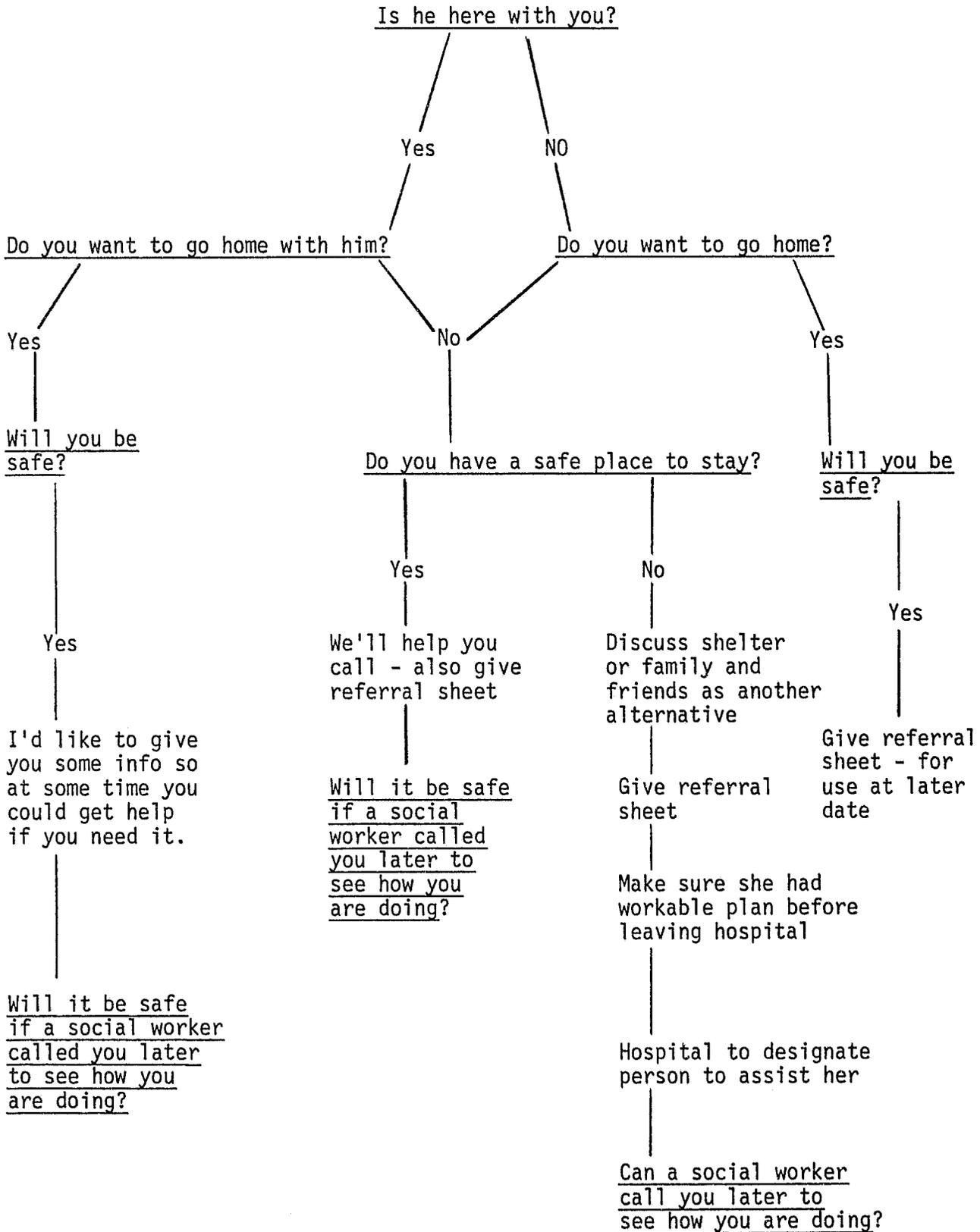
- VII. Take photographs of all visible injuries, for the medical record after obtaining written consent from the woman when the physical exam is complete. A polaroid camera should be available in the ER. Hospital may designate who takes the pictures.
- VIII. Discharge planning: Make sure that you have discussed and formulated a plan with her before she leaves; and that you have informed her of her rights to press criminal charges - give her legal handout sheet.
- IX. Follow-up: It is hoped that the hospital will designate a social worker to make a follow-up call to the woman to inquire about her physical and mental condition. However, this call must be made with extreme sensitivity because the battered woman may be reluctant to seek help for fear that her companion will find out she is seeking help and beat her again.

INJURY MAP



This injury map is to be utilized for nursing staff and physicians for the physical assessment of all Domestic Abuse patients. The injury map is a tool for complete data collection.

A step diagram designed to assist the ER team in planning discharge with the battered woman follows:



## APPENDIX I

### NOTES

1. Resources for Battered Woman (Chicago: Woman Abuse Action Project, Uptown Center Hull House, 4520 North Beacon, Chicago, Illinois 60640, 1980).

2. Susan M. Back, Ph.D., Judith Blum, Eileen Nakhnikian, Susan Stark, Spouse Abuse Yellow Pages: Transfer of Technology Directory of Spouse Abuse Programs, (Denver, Colorado: Social Systems Research and Evaluation Division, Denver Research Institute, University of Denver, 1980).

3. Connie Corrao, Patrick F. Jennings, Marcia Rachofsky, Barbara Tracek, eds., Survival: A Handbook for Battered Women (Milwaukee, Wisconsin: Milwaukee Young Lawyers Association, Inc., 1980), p. 27.

SELECTED BIBLIOGRAPHY FOR BATTERED WOMEN'S ADVOCATES

GENERAL BACKGROUND:

Battered Wives. Del Martin. San Francisco: Glide Publications, 1976. (Classic full-length study of all aspects of woman battering.)

Behind Closed Doors: Violence in the American Family. Murray Straus, Richard J. Gelles and Suzanne K. Steinmez. New York: Anchor Press/Doubleday, 1980. (Sociological research and analysis of the problem and efforts to address it.)

Conjugal Crime: Understanding and Changing the Wife Beating Pattern. Terry Davidson. New York: Hawthorn, 1978. (Examines social and legal issues, addresses those involved with or witnessing abuse and the possibilities of shelter efforts and personal response to battered women.)

Violence Against Wives: A Case Against the Patriarchy. R. E. Dobash and R. Dobash. New York: Free Press, 1979. (Analyzes origin of wife abuse in the family structure and social system responses, and recommends changes that can end woman abuse.)

Women and Male Violence: The Visions and Struggles of the Battered Women's Movement. Susan Schechter. Boston, MA.: South End Press, 1982. (Historical feminist analysis of the efforts to end woman abuse, including "where to from here?".)

GUIDES/MANUALS:

Advocacy Skills Manual. Pennsylvania Coalition Against Domestic Violence. Harrisburg, PA, 1979. (Legal advocacy manual.)

Battered Woman Hospital Protocol. Chicago Metropolitan Battered Women's Network, 1982.

Counseling the Abuse Victim. Linda Shaw. Pennsylvania Coalition Against Domestic Violence, Harrisburg, PA.

For Shelter and Beyond: An Educational Manual for Working with Women Who Are Battered. Massachusetts Coalition of Battered Women Service Groups. Boston, MA, 1981. (Grassroots approach to battered women's empowerment and understanding the issues that interfere with it.)

Getting Free: A Handbook for Women in Abusive Relationships. Ginny NiCarthy. Seattle, WA: The Seal Press, 1982. (Excellent resource for all women.)

A Monograph on Services to Battered Women. Susan Back, et.al., Colorado Association for Aid to Battered Women. Washington D.C.: Department of Health and Human Services, 1979. (Describes comprehensive program, including model advocacy program.)

The Shelter Experience: A Guide to Shelter Organization and Management for Groups Working with Domestic Abuse Victims. Gretchen Vapnar, Region V Technical Assistance Center. Rockville MD: National Clearinghouse on Domestic Violence, 1980. (A detailed "how-to" covering everything from setting up a shelter facility to housekeeping, with forays into philosophy and office graffiti.)



# ILLINOIS COALITION AGAINST DOMESTIC VIOLENCE

931 S. Fourth St., Springfield, IL 62703 - (217) 789-2830

## MATERIALS AVAILABLE ON THE ILLINOIS DOMESTIC VIOLENCE ACT

- . Illinois Domestic Violence Act booklets with section by section summary (\$.50)
- . Professional Manuals:
  - Law Enforcement (\$2.00)
  - State's Attorneys (\$2.00)
  - Civil Court Practice (\$3.00 + \$1.00 shipping)
  - Advocates and Service Providers (\$3.00 + \$1.00 shipping)
- . Victim Rights Sheets (master copy)
- . Videotape for Law Enforcement Role Call Training
- . Slide/tape presentation for victims
- . General information brochures and posters (free)
- . A Family Affair, an excellent 30 minute film which effectively demonstrates the use of an Order of Protection to stop violence within a family, can be borrowed at no charge (except shipping costs) from the ICADV.

To request any of the materials please contact Kathleen Quinn at (217) 789-2830 or at the address above.

To reserve the film please contact Suzanne Croteau at (217) 789-2830 or at the address above.