

CRIME PREVENTION REVIEW

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Contents

Vol. 6	October 1978	No. 1
		Page
✓ [Crime and Public Services: Prevention/Reduction Through Environmental Design <i>James A. Frank</i>	51891	1
✓ [Report on the Attorney General's Conference on Domestic Violence <i>Carole Ritts Kornblum</i>	51892	8
✓ [Treatment of Domestic Violence: A New Procedure <i>Murray Bloom</i>	51893	19
✓ [Cedar House: A Treatment Center for Families with Child Abuse and Neglect Problems <i>Clara Lowry and Bobbi Kendig</i>	51894	28
Miscellaneous		
Book Review		34
Training, Seminars and Conferences		36
Books Received.....		37

The CRIME PREVENTION REVIEW is a professional forum for the Criminal Justice System in California designed to provide discussion of varied concepts and issues of crime prevention and useful resources for the practitioner in the field.

The Attorney General's office does not necessarily endorse opinions set forth in signed contributions or the listed training programs and resources.

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Report on the Attorney General's Conference on Domestic Violence

Carole Ritts Kornblum

Carole Kornblum has been a deputy attorney general with the California Office of the Attorney General since 1968. In addition to her assignment as the coordinator of the Attorney General's Women's Rights Task Force (and of the domestic violence conference), Ms. Kornblum's legal specialties include charitable trusts, constitutional rights, anti-trusts, escheat-unclaimed property, administrative investigations' enforcement, and legislation. Ms. Kornblum received her B.A. in political science at U.C.L.A. in 1964, and her J.D. from Hastings in 1968, and has since taught classes in discrimination services, among others, at the Hastings College of Law.

BACKGROUND

Law enforcement officers, prosecutors, judges, probation officers, community services personnel and women's shelter personnel have become aware of the growing problem of domestic violence. "Domestic violence" is generally defined to include all forms of violent behavior between people who live together: spouses beating or killing each other; unmarried people living together who beat or kill each other; a parent who abuses or sexually assaults his or her child; and a child who abuses a parent.

The statistics on domestic violence are alarming. It is estimated that one-fourth of all murders in this country occur within the family, and one-half of these are husband-wife killings.

According to statistics compiled by various law enforcement agencies, most reported domestic violence involves a man beating his wife or the woman with whom he is living. Women from all social and economic levels of our society are victims of violent beatings by their husbands or male partners. One-fourth of the women beaten are pregnant at the time of the beating. Many women report these crimes; many more women do not report the beatings because of fear, embarrassment, or lack of information on where to seek help, prior experience with police, and other factors.

On the basis of existing reports and information from federal, state and local government agencies, it is estimated that there is some form of domestic violence in 25% of all families in this country. In California, it is estimated that 50% of the married women will be assaulted by their husbands at some time during the relationship.¹

Domestic violence is a dangerous area for law enforcement intervention.

¹ The above statistics have been compiled from a variety of sources, including government and private studies, conferences (such as the White House Conference on Violence in the Family, July 1977) and news reports. Statistical research is currently being done on the topic of domestic violence in different areas of the country. For current statistics refer to the FBI yearly studies in the *Uniform Crime Reports*, available in public libraries and in police stations.

Twenty-five percent of the officers killed in action were killed while answering a call for help involving domestic violence. Twenty-eight percent of officers injured in action are injured while answering domestic violence calls.

Violence in a family may affect all family members. In many cases where there is beating of a woman there is also beating or sexual abuse of the children in the family.

Violence often perpetuates itself in future generations. Boys who have seen their fathers beat their mothers or beat their children are likely to grow up to become battering men also.

Domestic violence may come first to the attention of the police or sheriff's department when a call for assistance is received. Available statistics show that a large percentage of emergency assistance calls involve family violence. Officers report that domestic violence is one of the most difficult emergencies for police intervention. Often either or both the man and the woman are hostile to the officer who arrives on the scene, and sometimes will attack the officer. Many people do not understand how the criminal and civil laws apply to domestic violence, and may be reluctant to seek the protection of those laws. Some law enforcement officials who have dealt with domestic violence crises believe that more cooperation is needed from victims who are willing to use the laws and procedures available for their protection. Others contend that too much of the enforcement burden falls on the victim.

ATTORNEY GENERAL'S CONFERENCE ON DOMESTIC VIOLENCE

In 1977, the Attorney General's office sponsored a statewide conference on domestic violence. The focus of the conference was to provide a critical evaluation of the responsiveness of the criminal justice system to the need of both victims and law enforcement officials involved in domestic violence cases. This conference presented expertise on the subject from panelists representing law enforcement, local and state government, community and legal services, women's shelters, victims, medical and psychology experts. These panelists shared the newest information available about police crisis intervention training models, legal procedures, new laws and pending legislation, special community and private services for victims, and psychological analysis of the dynamics of violence and of battering, along with new treatment approaches.

Preliminary surveys conducted by the Attorney General's office indicated that the following areas were of greatest interest to law enforcement officials, public agencies and individuals:

- (1) What are the newest law enforcement crisis intervention techniques for domestic violence cases and how well are they working?
- (2) How well does the criminal justice system work in responding to the victims, law enforcement officers and others involved in the domestic violence cases? How much is expected of victims? Of law enforcement? Are the burdens unrealistic? What procedures and approaches might work better?
- (3) What are the alternatives to prosecution in battering cases, and how well do these work?
- (4) Where are the emergency and long term services available to victims and their children? How can a victim put an end to the cycle of violence?

Panelists addressed these questions and presented often conflicting responses and suggestions. A general summary of the panelists' comments is included in this article. All of the panels were recorded on cassette tapes and are available for purchase.² Published in conjunction with the conference was the Attorney General's "Handbook on Domestic Violence" (Department of Justice Information Pamphlet No. 11, 1978).³ This handbook was drafted for use by law enforcement personnel as well as private individuals. Through a grant supplied by the Peace Officers' Standards and Training Commission, copies of the handbook are being printed for free distribution to law enforcement agencies throughout the state. The "Handbook on Domestic Violence" contains the following chapters:

Chapter 1: Domestic Violence: What is it? How widespread is it? Where does it happen? What are the dangers to women, men, children? What are the dangers to police?

Chapter 2: The Criminal Justice System and Domestic Violence: Relationship of victims, police, prosecutors, courts and probation officers to domestic violence cases. How the system works and what are its limits? What is expected from a victim? What is required of the police?

A. Summary of Criminal and Civil Laws that Relate to Domestic Violence: Overview of procedures and choices available under present legal system for dealing with a domestic violence case.

B. Flow Chart of the Criminal Justice System and Related Services, Public and Private.

Chapter 3: Emergency Services for Victims: Emergency help for battered victims. Community and private services for victims, batterers, children. Referral for victims and for law enforcement use.

Chapter 4: Law Enforcement: Officer injuries; special crisis intervention training programs; documentation; referring victims to emergency services; other resources and specialized training for domestic violence intervention by law enforcement.

Chapter 5: Bibliography

SUMMARY OF PANELIST COMMENTS

Panel I: *Introduction and Overview of the Problem*

As previously stated, the statistics of domestic violence and the danger to law enforcement officers when responding to calls is alarming. It was noted that the figures are multiplied by the cyclic nature of the problem. Where spouses continue the relationship, beatings will probably increase in severity over time if left untreated. Where the parties separate, batterers generally continue to be batterers in other relationships. Children who grow up in a domestic violence situation will often become batterers or victims when they are adults.

Calls for police intervention into domestic disputes where there is physical violence are received in large numbers. It is estimated that in the city of San Jose, for example, one domestic violence call is reported to police every 15 minutes.

² For information about purchasing cassettes, please write to the Attorney General's Crime Prevention Unit, 3580 Wilshire Boulevard, 9th Floor, Los Angeles, California 90010.

³ Copies of the "Handbook on Domestic Violence" when printed may be obtained by writing to the Attorney General's Crime Prevention Unit, 3580 Wilshire Boulevard, 9th Floor, Los Angeles, California 90010.

Domestic violence cases present unique and frustrating problems for law enforcement, attorneys, courts, victims, and social and community organizations. While some police may feel reluctance to intervene in domestic violence calls because of the risks and complexities, women's representatives emphasized that police have the superior physical and legal ability to deal with a violent situation. Police set the standards in their community by letting people know that beating is a crime and violence will not be tolerated. If police do not respond, it symbolizes tolerance of the crime. Police also assist the victim by informing her of her legal rights and alternatives. Law enforcement officials stated that officers need more training in handling domestic violence calls, including crisis intervention and referral techniques, in police academies and advanced officer training courses. Some communities, especially in southern California, require more ancillary services for victims to which police can refer victims.

Police, judges and citizens must be encouraged to face the reality of the problem and not ignore it as a "domestic quarrel." The victims need support in their efforts to leave home and/or prosecute. If the defendant pleads self defense, the victim's character will be at issue and she will be the subject on trial. Judges commented that impaneling juries is difficult when *voir dire* reveals that citizens don't want to get involved in domestic cases.

Victims who call the police may decide not to prosecute for a variety of reasons. The burden of carrying through with prosecution has been placed usually on the woman. If she decides to drop the charges, the man will not be prosecuted. Most panelists acknowledged this procedure as the most practical. However, some panelists argued that the burden of prosecuting rests with the State, and urged district and city attorneys to prosecute on behalf of the State whether the victim wants to prosecute or not. This is the approach being taken in Los Angeles.

Judges emphasized that often the legal remedies of criminal prosecution or divorce are inadequate. Temporary restraining orders (TRO) issued by the Court may order the man to stay away from the woman and the home. Violation of a TRO is punishable as criminal contempt, which is a misdemeanor. A major problem with TRO's is enforcement.

Special problems exist where the batterer and victim hold different legal status, such as illegal aliens and persons living on military bases.

Panel II: *Law Enforcement Intervention Into Domestic Violence*

Police and sheriffs' critical intervention role in the resolution of domestic violence situations often influences the effectiveness of the legal and social service institutions that service these cases. Police are the only individuals equipped and sanctioned to enter homes to intervene. They are a 24-hour emergency resource, and are the only alternative available and known to many low income and minority families.

Many panelists commented on the frequent negative police attitude toward domestic violence calls. Intervention into domestic violence disputes may not fit the traditional image of police work and frequently results in officer injuries.

In addition to the need for training and "consciousness raising" of police officers, many panelists urged that procedural changes in the criminal jus-

tice system would be most effective in changing police attitudes. Police should be trained in crisis intervention techniques to reduce time spent on calls and increase effectiveness. More hours in police academy and advanced officer training should be allocated to crisis intervention. Police should be instructed in referrals. Menlo Park Police Department provided officers with a handbook listing of Palo Alto agencies in order to aid and refer victims. Police officers should be encouraged to work with community organizations, including shelter groups. The Santa Rosa Women's Shelter conducted a training program for police. Officers should be aware of their responsibility to enforce temporary restraining orders and to inform victims of citizen's arrest procedures.

Various approaches to these problems were presented in the Panel IV training models. For example, the Riverside Police Department adopted an in-house psychologist and chaplain program. The Riverside Health Department assigned a psychologist to work at the police station, who could be contacted for advice or called to the scene of a domestic violence situation. A chaplain corps was created in the department to assist in crisis intervention.

The Garden Grove Police Department instituted a Family Violence Project in conjunction with the county Department of Mental Health. Police officers called upon volunteer counselors at any hour to assist in making referrals and giving information.

Panel III: *Critical Assessment of Criminal Justice Procedure for Domestic Violence Cases*

Panelists commented that arrest and prosecution is not always an adequate remedy to a domestic violence problem. This legal process is painfully slow. Immediate service in the form of counseling and/or shelter may be more responsive to a victim's needs. Prosecuting attorneys and courts are frustrated often by victims who drop charges to keep the family together, to avoid violent retaliation, and for other reasons. Prosecutors feel they cannot treat domestic violence cases like all other cases; the provision of support services to the victim is crucial.

When a victim wants to drop the charges against her assailant, the prosecutor has to decide whether to prosecute the case without the victim's consent. A Santa Rosa shelter estimated that only 5% of the women in the shelter have pressed charges. A study in a small jurisdiction revealed that of 82 domestic violence cases, 24% never reached the district attorney, and 34% of the remainder never resulted in charges. Some panelists urged that the prosecutor has a responsibility to follow through with prosecution, even if the victim refuses to press charges. Others believed that the victim must be a participating witness if there is to be any case at all. In Santa Clara, domestic violence complaints are referred to a complaint desk in the district attorney's office, which waits for the victim to contact them. The victim is given two weeks to think about prosecution. The Los Angeles city attorney's office assigns domestic violence cases to specially trained attorneys who handle the cases. There is a domestic violence coordinator, and the office is committed to prosecuting domestic violence, as well as offering referral and support to the victims.

The public defender panelist commented that defense attorneys should make the batterer feel that someone is on his side. He may be as much a victim of internal rage as the woman is and should be encouraged to seek counseling.

San Jose Community Legal Services has established a Domestic Violence Unit under a federal grant. This unit provides direct services and community referrals to victims who qualify for legal aid. The highest priority is to inform women of their legal rights in obtaining relief, as well as their responsibilities in prosecution. Police must also be equipped to give accurate information to the women.

Women's shelters offer legal services to victims in the form of education regarding their rights and direct assistance. Shelters often advocate changes in the criminal justice system to make it more responsive. Victim assistance funds are not available generally to victims. Shelter representatives urged creation of police domestic violence teams; removal of the batterer from the home; and that police should inform victims of citizen arrest procedures, her rights, community medical and legal resources, as well as actively enforce TRO's. It was suggested that filing fees for obtaining TRO's should be eliminated, and that police cooperate with shelters in transportation of victims, referrals and insuring protection.

Temporary restraining orders provided for under the Code of Civil Procedure section 527(b) are not adequately enforced once they are obtained. Violation of a TRO is not a civil matter, but a criminal contempt and a misdemeanor enforceable by police. Two major problems are (1) whether the TRO is still in force, and (2) whether the defendant had knowledge of the TRO. Santa Clara County has adopted guidelines for the implementation of CCP § 527(b) which defines the procedures for obtaining and enforcing TRO's. The guidelines create uniform language for each type of order. The language would be introduced and explained at police training sessions. The guidelines suggest that TRO's be sent to county computer networks for quick reference. Such systems exist in some areas, and in these areas the TRO's are entered at minimum expense.

That children's needs must be addressed in a family court system, in referrals, and in reporting was also discussed.

Panel IV: *New Developments in Crisis Intervention Training for Law Enforcement*

Law enforcement officials agreed that crisis intervention training is essential for every officer responding to domestic violence calls. If the officer is not properly equipped to deal with the situation, he can worsen the problem.

The Peace Officers' Standards and Training Commission (POST) is responsible for setting minimum standards for law enforcement training. Present training in crisis intervention should be expanded. POST requires only 12 hours per year in domestic violence intervention. Police officers cannot be expected to be counselors to cure social problems, but must be able to mediate effectively and to make referrals.

Several models for crisis intervention training have been developed:

(1) The specialist training approach was utilized in New York and Oakland. In New York, certain officers were given 160 hours of specialist academic instructions and sensitivity training. The results of this approach as applied in New York were poor, with more domestic violence in the experiment precinct than in control precincts. Oakland established two two-man specialist units with better results. They established a contact between the police department and community resources. The program was suspended for lack of funds.

(2) The city of Richmond employs the generalist approach, in which all officers have crisis intervention training. The officers were receptive. The approach has proved effective and has been used now for 7 years.

(3) Hayward has used the non-sworn specialist approach, in which members of the clergy or mental health professionals respond to domestic violence calls with the police. However, this approach has generally not worked well in other areas.

(4) Utilizing other resources for training, including mental health agencies, telephone hotlines and shelters has also been used. Sacramento has successfully utilized the generalist approach. The Sacramento program was LEAA and POST-funded. Selected officers were trained to be instructors and a community resource handbook was developed. An eighteen-month course was offered, in which 2,000 people were trained. Since the program was instituted there has been a decrease of 3 officer injuries per month, a decrease in the time required to handle a domestic violence call, and arrests arising out of domestic violence have dropped from 6% to 3%.

In addition to intensified crisis intervention training, it was suggested that more women are needed in police departments to help in crisis intervention and to set role models.

Community education and community support of police efforts is needed. Interagency cooperation toward solutions to domestic violence is essential. Community organization and police training can be done without mandate by the State or by POST. The Tulare County Sheriff's Department has worked with social service groups to provide basic training on the problem and referrals. The Riverside County Sheriff's Department also has worked with community groups to deal with the problem. The University of California at Riverside has provided continuing education courses on the subject, emphasizing that the community, as well as the police, need training in domestic violence.

Police also need to be trained on dealing with the indicators of potential domestic violence, so that actual assaults can be prevented. Statistical studies suggest that domestic violence cases that do not involve assault initially can be indicators of future violence, and should receive responses aimed at prevention and crisis intervention.

Panel V: *New and Proposed State and Federal Legislation to Deal with Domestic Violence Problems*

Recently, several bills dealing with domestic violence have been introduced in the California Legislature and in Congress. As with all legislation, the most crucial problem is effective implementation.

Senate Bill 91, effective in 1977, provides \$280,000 to fund the operation of six California shelters. The bill contained strict guidelines for the selection of urban and rural shelters, and reporting requirements for the shelters. The California Department of Health administers the program. These funds are available for only three years and cannot adequately meet all of the expenses of running a shelter; however, women's organizations are seeking an extension and more funding.

Senate Bill 92 requires that police departments file child abuse and wife abuse data separately. Assembly Bill 691 neutralizes the felony wife beating statute and redefines the crime as spouse abuse, and also removes the requirement that the parties be legally married as a condition to prosecution. Assembly Bill 1019 allows married persons to obtain TRO's against a spouse without having to file for dissolution first. TRO's are also available to unmarried persons under this bill. It was suggested that police be trained to implement the provisions of AB 1019, that filing fees should be waivable, and that court procedures be made less burdensome.

A number of federal bills have been introduced which would provide funding for projects dealing with domestic violence. Senator Cranston's bill (S. 2757) provides for the dispersal of funds by advisory committees, but does not earmark these funds for shelters or other direct services. Congressman Miller's bill (H.R. 12299) incorporates earlier bills by Congressman Boggs and Congresswoman Mikulsky, and provides funds for studies, training and grants for direct services.

The Family Law Advisory Committee to the California Senate Subcommittee on the Administration of Justice is conducting a legislative study on the State Family Law Act. They are recommending that TRO's be extended permanently in dissolution situations. The committee would welcome any suggestions for legislation.

Panel VI: *New Developments: Delivery of Services to Victims of Domestic Violence*

Court Services: Conciliation Courts

Conciliation courts exist in several counties. Before divorce proceedings begin, a spouse may file a petition in conciliation court, which is part of the local Superior Court. The conciliation court can order parties to attend a marriage counseling session (California Civil Code § 1761).

The San Diego County Conciliation Court has an active domestic violence program. Conciliation courts are currently empowered to deal only with marital problems.

Legal Services: Victim/Witness Assistance

Victim/witness assistance programs exist in many cities and counties to provide direct services, advice and information on victim compensation. They help the victim work within the criminal justice system. The Marin County Victim-Witness program estimated that 75-80% of the victims seen were battered in a domestic violence situation.

Community Services: Models and Coordination

Community organizations, professionals, and other concerned citizens were encouraged to work together toward a local domestic violence program. Various talents and services already exist at the local level and can be effectively utilized if there is an effort to coordinate them. Tulare and Riverside counties are models in this area which have brought together helplines, volunteer organizations, government agencies, colleges and professionals.

Mental health professionals should be aware of their social and legal responsibilities in reporting possible violence (*Tarajoft v. Regents of the University of California*). The right to confidentiality ends where the threat to another begins.

Legal services corporations should work in conjunction with other agencies in their family law cases. San Jose Community Legal Services has created a domestic violence unit under a federal grant to explore alternative ways to deal with the problem. The unit does emergency intake, TRO's, custody and dissolution work, makes referrals to private attorneys and social service agencies, and works with district attorneys and probation officers.

Police Referrals

Tulare county has worked with various social service agencies to establish a community-coordinated program for assisting and referring domestic violence victims and batterers. Police officers must be prepared to give accurate referrals in crisis situations.

Medical Services

A unique model of medical services for domestic violence victims that operates in Santa Monica Hospital Medical Center was described.

Shelters for Battered Women and Children: Shelter Networks

Shelters provide a refuge for women and children fleeing a violent environment. They also provide legal services; referrals to medical, welfare and employment assistance; child care and counseling. Legal services in shelters include advice and advocacy for women calling and living in the shelter, as well as acting as liaison with the police and district attorneys. Shelters may lobby new legislation and work with legal groups such as legal aid.

State and national shelters networks have been established to provide a supportive organization for shelters' groups.

Child Care

The needs of children living in a violent environment must be met for their protection and to stop the cyclic nature of the problem. Any non-profit corporation can apply for day care funding and, if federal funding is received, the facility must give priority to families in crisis. Write to:

State Office of Child Development
California Department of Education
1500 Fifth Street
Sacramento, California 95814
Attn: Frances Walker
(916) 322-6245

Undocumented Aliens

If an undocumented alien calls for any of the numerous social services, e.g., welfare, housing, etc., the agency may call the Immigration and Natu-

ralization Service (INS). The victim or batterer may face deportation. The victim usually will not call for assistance out of fear that her children, even if they are legal residents, will be deported with her. The husband may also be deported if she calls. Even if the man is a lawful resident, conviction for a crime of moral turpitude is grounds for deportation. The assailant might also call the INS and report the victims' undocumented status in retaliation.

Funding Special Services to Victims, Law Enforcement: Public and Private Resources

Most of the shelters are now funded by private donations and foundation grants. Some non-traditional funding sources for shelters and political work in domestic violence were discussed.

Psychological Dynamics of Domestic Violence and of Crisis Intervention; Counseling and Other Treatments for Victims, Batterers and Children of Violent Homes

One psychologist's theory of a "three-phase cycle of violence" was explained:

(1) *Tension building stage*: The woman senses that the man is on edge. Small episodes of violence are covered up, and she appears to accept his abusiveness. She internalizes the fault in herself; her anger builds and she cannot express it. The man, at the same time is fearful that she may leave him.

(2) *Explosion or acute battering incident*: The woman cannot stand the tension building in the first phase, and sometimes may provoke the incident in order to get it over with.

(3) *Calm, loving respite stage*: The parties are thankful that the battering is over. The man appears genuinely sorry and afraid the woman may leave him. The man expresses his love for her and she sees the good side of him.

This cycle allegedly repeats itself. It may vary in time and intensity, but will invariably escalate as it continues. In terms of intervening to permanently break the cycle of violence, phase one is considered the best time, though obviously difficult to recognize. Police generally intervene in phase two to break up and/or investigate a domestic dispute. Phase two, however, is an inappropriate time for psychological intervention due to the high emotions of phase two incidents. By the time the parties have moved into phase three, intervention is difficult because the woman will rarely leave the man and life is "better" again.

Many psychological experts contend that in the battering environment, the woman has been made dependent and she believes she has failed as a wife. Her responses are based on survival instincts. She may be manipulative when she leaves the situation, because she has been dependent and unable to ask for what she wants. Her responses usually change when she leaves the battering environment as she becomes more independent.

Mental health professionals must recognize the severity of domestic violence cases. Seventy-two percent of all homicides involve family members and friends.

Editor's Note:

Since the domestic violence conferences were held, the Attorney Gene-

ral's Crime Prevention Unit has conducted the first spinoff conference in San Diego, in cooperation with the conciliation court of the Superior Court of San Diego county. The goals were to reduce and prevent incidents of domestic violence, as well as injuries to police, to seek ways of treating children, and to seek alternatives to criminal prosecution and divorce as means of meeting the problems. One of the goals was to emphasize the gravity of the problem in all its aspects, as detailed in this article, and to help create an atmosphere of confidence that by working together, something can be done. In San Diego, for example, the following three points have been proposed as a first step in dealing with domestic violence:

- (1) Develop a task force.*
- (2) Police, private attorneys and members of the women's coalition are working together cooperatively to develop a mutually acceptable temporary restraining order.*
- (3) A pilot project has been proposed which would involve both the San Diego County Sheriff's Department and the San Diego Police Department (and counselors) to deal with domestic violence problems as encountered by law enforcement in a team approach.*

The purpose of the task force, which would include all involved agencies and members of the community, would be to coordinate programs and resources in the county; to continue study of the problems; to evaluate and develop resources; and to assist in the coordination of efforts by law enforcement, courts, city attorney, district attorney, and others such as the local Bar Association, psychologists, counselors and military personnel. (The efforts of San Diego's conciliation court are outlined in another article in this issue.)

Currently, similar conferences and activities being coordinated by the Crime Prevention Unit are in planning for Riverside and Imperial counties, in San Bernardino County, and in Fresno. It is felt that with proper coordination of existing resources, earlier identification wherever possible, stronger enforcement of laws, and improved treatment methods, the incidence and impact of domestic violence for all concerned may be reduced.



END