

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
February 16, 1979

The fortieth meeting of the Senate Judiciary Committee was called to order in Room 331 of the Capitol Building by Senator Everett R. Lensink on the above date at 9:33 a.m.

ROLL CALL:

All members were present with the exception of Senator Healy, who was excused.

CONSIDERATION OF SENATE BILL 409:

Senator Regan, District 31, gave an explanation of this bill, which is an act to generally revise the law relating to assaults and intentional torts occurring between spouses. She stated that this bill came out of a study dealing with spouse abuse, which the Montana Board of Crime Control funded, and out of which came the book, "A Study of Spouse Battering in Montana". (See copy enclosed) She said that on page 3 of the book that it deals with Montana law and remedies. She felt that the state has an interest and a duty to protect one individual from injury to another, and she did not feel that a marriage license should be a license to batter.

Carol Mitchell, from the State Task Force on Spouse Abuse, and in private practice in Missoula, Montana, stated that the common law of Montana prevents suits between husbands and wives, and parents and children; and she felt that we should abolish that immunity.

Pam Larson, an English teacher from Eastern in Billings, and mother of two sons, age 14 and 15, stated that she and her sons were part of a battering experience. She said that she preferred charges against her husband in behalf of herself and her youngest son, that her former husband was found guilty of assault, that they had extensive medical expenses; and the man was fined \$50.00 and released. She stated that she was forced to pay the medical bills for her son because she was his legal representative. She also paid medical expenses for herself.

Sharon McVicker, representing herself, stated that she was a lab technician and when she had been married for approximately one year and when she was four months pregnant, her husband held her against a wall while his 16-year old daughter from a previous marriage, kicked her in the stomach. She said that she did not suffer any more battering until after her child was born; when she was violently shoved through the front door and her right artery was severed and a peripheral nerve damaged. She stated that she incurred medical bills over a six-month period and that she had no protection and she was responsible for the bills. She further stated that after her first operation she suffered two more beatings and that it has been agonizing mentally, physically and emotionally and asked the committee to support the bill.

Carol Mitchell said that theoretically the wife should be able to go to her husband and collect, but the hospital wants their money and that the woman has to be held responsible and that there is no ability for the woman to collect for the permanent damage she has suffered. She stated that the previous testimony covered the first section of the bill, and now they would offer testimony covering the second section. She stated that the law is not very clear concerning a temporary restraining order or an injunction where a husband and wife are in a divorce action.

Jessica Hunter from Missoula, who is a professional home economist, and teacher for 15 years, said that she was admitted to the hospital at least seven times because of this. She said that after the divorce, he would sit outside her door day and night; and she stated that women are in bad need of a restraining order.

Ann Bullington, Helena, connected with the State Task Force on Spouse Abuse, stated that she was a student at Carroll College, that she had left her husband who had abused her in Georgia, moved to Montana, got a job, a good home and four months later her husband was knocking at her door. She said she called the police and what she needed most was a restraining order, but was told she could not get one as she had to wait until she had filed for a divorce.

Marti Adrian gave a statement concerning sexual assault. She said that the couple may be generally living apart without any sexual activity. She said that sexual assault is common and currently we prohibit people from prosecution because they have not yet filed for a civil action or divorce. She said that the first problem is that they have to make an important legal decision at a time of crisis in their life. She also explained that batterers are very often the controller in the home, women often leave the home with no money to get away; the law is asking them to file for divorce and put forth some money for divorce without the ability to do so.

Mark Bauer, who was the attorney who represented Sharon McVicker in her divorce action, stated that Sharon had filed for a divorce prior to the time she was thrown through the door. She was battered after she had tried to get a divorce. Technically, she was still married and there was no way to collect for her permanent injuries. Her husband was fined \$50.00 and he stated that they had a restraining order and this did not protect her.

Diane Mann, a social worker and marriage counselor in Great Falls and a member of the Task Force on Spouse Abuse, stated that they put in many hours of research into the tragedies of assault and it became apparent that legislative changes would have to be made. She stated that they found assault in approximately 1/3 to 1/2 of all American homes and that society cannot turn its back on bruises, broken bones and shattered souls. She stated that children learn two things - that another person in power and with authority has

the right to hit you and hurt you, and they begin to feel that they deserve what they get - that they are a bad person. She felt that minds and bodies should not be violated by another human being.

Reverend William Burkhardt, president of the Montana Association of Churches, gave a statement in support of this bill.

Jan Brown, lobbyist for the Montana Association of Churches, offered support for this bill.

Carol Mitchell explained that from 14 to 20 percent of the married women will be hospitalized as a result of violence in their own homes and she felt that this was no minor problem.

Steve Waldron, Representative and a member of the Task Force, stated that it became apparent to him of the overwhelming need to abolish the intentional immunity, but in regard to the restraining order, he did think there was little need for that because it is just a piece of paper; and when dealing with the emotions, he did not think it would help that much.

Senator Regan stated that she thought it was imperative that we pass all three sections and she could assure the committee that it was entirely necessary.

Senator Towe questioned on section 1, why this is not being handled in the divorce decree; that if injuries have been intentionally inflicted, that certainly this is a matter that the divorce court should take up.

Senator Olson questioned if in their Task Force study, did they uncover any male spouse abuse, and it was noted that 2 to 7 percent of abuse cases are abuse to men.

Mr. Bauer stated that many women can collect on their medical, but he did not know of any courts that would award any amount of money for permanent injuries.

Senator Van Valkenburg stated that in section 3, it would seem that you would have more than a piece of paper if you had a peace bond.

There being no further questions or comments, the hearing on this bill was closed.

#### CONSIDERATION OF SENATE BILL 404:

Senator Kolstad gave an explanation of this bill, which is an act to change the filing time for a financing statement with respect to a purchase money security interest from 10 days to 15 days and to change the rules on priority over a conflicting security interest in collateral to give a purchase money security interest in collateral priority if it is perfected within 15 days rather than 10 days after the debtor receives possession of the collateral.

Leonard Larson, chief deputy from the Secretary of State's office, said that this bill was O.K. with them.

There were no further proponents and no opponents.

Senator Towe moved that on page 1, line 6, strike "15" and insert "20" and on page 1, line 9, and page 2, line 11 and page 5, line 3, strike "15" and insert "20". The motion carried unanimously.

Senator Towe moved that the bill do pass, as amended. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 395:

John Hanson, Commissioner of Campaign Finances and Practices, gave an explanation of this bill, which is an act to revise and clarify the prohibitions against corporate contributions and expenditures in political campaigns.

Janelle Fallon, representing the Montana Chamber of Commerce, gave a statement in support of this bill.

Margaret Davis, representing the League of Women Voters, stated that they were in support of this bill and this was a better bill than SB 112, which made an attempt to clarify but was not adequate.

There were no further proponents and no opponents.

Senator Towe stated that ballot issues are not written into a bill. John Hanson stated that several corporations filed suit on ballot issues.

Senator Turnage stated that there are many business entities other than corporations - there are trusts, foundations, limited partnerships, joint ventures, etc. Mr. Hanson said that they felt that most of those associations were incorporated and the intent was to update the language so that it was readable and to go along with the ruling of the 9th Circuit Court of Appeals for segregation of funds by corporations.

Senator Towe questioned if it was their intent to include or exclude business entities. Mr. Hanson said that it was their intention to do it if it was done before and perhaps they did not look at it close enough.

There were no further questions or comments and the hearing on this bill was closed.

CONSIDERATION OF SENATE BILL 482:

Senator Brown gave an explanation of this bill, which is an act to provide for the seizure and forfeiture of controlled substances and implements and conveyances used in dangerous drug

violations. He stated that this was in line with federal law and was an added tool which law enforcement officers use in dealing with the enforcement of dangerous drugs.

Tom Honzel, representing the Association of County Attorneys, proposed an amendment that he felt was needed. He stated that they do not intend to confiscate anybody's car if they have just a small amount of marijuana. He commented that the drug traffic is big business and in Montana it is getting to be big business too. He thought that this might slow it down a little.

Mike McGrath from the Department of Justice made a statement in support of the bill.

There were no further proponents and no opponents.

Senator Turnage questioned what a controlled substance is. Mr. McGrath stated that it was defined in Title 50.

Senator Turnage questioned if this relates only to personal property. Mr. Honzel replied that if they have a piano, they often have a false bottom in it and the drugs are transferred like that.

Senator Towe questioned about the money and Mr. Honzel replied that when there is a drug bust, there is usually an exchange of money going on at the time.

Senator Anderson wondered how long it would take to get an airplane back to an owner if they had seized one. Mr. Honzel stated that there is an exclusion unless they use the lease as a front.

Senator Van Valkenburg stated that the property would be sold and the money put into the general fund but the other alternative is that the law enforcement agencies start building their own armada of cars, planes, etc. Mr. Honzel replied that that is what the Feds do. They use the planes, etc., for drug surveillance. He thought that it would probably depend on the district judge.

Senator Van Valkenburg commented that if the agency wants to retain the conveyance for their official use, that it may.

Senator Towe questioned on section 2, the things that are subject to forfeiture, if this is mandatory or arbitrary. Mr. Honzel said that in section 9, it says that if not used, the court shall order the release and shall dispose of in the manner as follows:

Senator Towe questioned on page 2, line 22, "established by the owner." He felt this made the burden of proof on the owner.

The hearing on this bill closed at 10:48 a.m.

CONSIDERATION OF SENATE BILL 420:

Senator Fasbender, from District 17, passed out some copies of proposed amendments for this bill, which is an act to promote free and open competition and to preserve the free-enterprise market system by prohibiting monopolistic and related practices and combinations and conspiracies in restraint of trade. He stated that they are not attempting to regulate business, but to assure that free enterprise could survive in Montana. He stated that this was a major piece of legislation.

Jerome Cate, Chief of Antitrust Enforcement Bureau of the Department of Justice, offered a statement in support of this bill.

There were no further proponents.

J.C. Weingartner, representing the Montana Bar Association, stated that they were lukewarm to this bill. He said that the problem they see is that all lawyers who want to practice here have to belong to the bar association and with this amendment, the bar association would be excluded from that and they would have no problem with this bill.

Glen Drake said they would support the bill fully, with the amendment.

Joe Maierle, Chairman of the Board of Montana Chamber of Commerce, stated that it was difficult to support a piece of legislation which purports to preserve the free enterprise system, but they wish to raise some points of concern. He said that they met with Charles Erdmann from the attorney general's office to review the legislation and one of the recommendations was to reduce the fine from \$10,000 to \$2,000. He stated that the broad investigative powers given under this legislation is a concern to them; businessmen could be made to open records to the attorney general; and if they will not, they could be forced to go into court experiencing attorneys' fees and other costs; and he felt the right of an individual to have to reveal his business practices to another business could be considered a violation of his rights. He said that antitrust actions can challenge the sale of a business and that the best way to expand is to buy a small business firm with a good reputation, and that another business could say that they want to restrain trade and this would create a monopoly. He further said that labor unions are exempt from antitrust. He said a major point is, is this really needed, the federal government has funded establishment of the antitrust bureau; this is a typical case of the federal government involving itself in the affairs of the state which they feel is of a dubious nature. He stated that the attorney general's office has the power to control unfair labor practices and they recommend that this bill do not pass.

Don Allen, representing the Montana Petroleum Association, endorsed the comments of the State Chamber and he stated they also oppose this legislation.

Senator Fasbender said that they realized that sections of the bill would cause controversy, particularly section 9.

Senator Turnage questioned what request was made to fund this. Mr. Cate stated that in addition to our federal grant, they needed about \$20,000 in 1980 and about \$46,000 in 1981. He said that they are of the opinion that they will be able to recover adequate sums of money to cover that amount of money in the biennium.

Senator Towe asked why in section 8, the venue was in the First District Court - that in normal law it was where the defendant resides. Mr. Cate said that if they have to go to Ekalaka every time, it becomes very expensive.

Senator Towe said that in paragraph 3, there is no court supervision and he has some hesitation about state agencies jumping in and demanding information without court supervision. Mr. Cate testified that under that section, they would request information and if they did not get any information, then they would go to court and ask the court to give them that information.

Senator Towe wondered if there was any provision for criminal or civil penalties as a result of their failure to comply with the request. He said that Blue Cross and Blue Shield are exempt by statute and does that mean they are fully exempt. Mr. Cate said that they have a particular provision in their act that they are exempt; and if a situation arises where they are exempt, it would exempt them from this act, but if not exempt, they will not be exempt from the act.

Senator Towe asked how do they define monopoly as it affects a small state like Montana, referring to section 6, when there just happens to be one corporation in the state of Montana doing this kind of business. Mr. Cate said that this is a monopoly but this is not covered by this act; but this would be a situation where large industries come in and buy out all the small industries. He said the definition of a monopoly is the sole enterprise in a given industry and that Montana Power is a monopoly in western Montana, 80 percent or more ownership is in the hands of one entity; but that doesn't necessarily hold true and it is really a case of court interpretation.

Senator Towe stated that there is a bread company which happens to have a small monopoly over this industry.

Senator Lensink questioned if there were situations that you can't get to under state law at the present time. Mr. Cate said that he was not sure how free he was to speak of these but he could assure the committee that there are cases.

There being no further questions or comments the hearing on this bill was closed.

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Senator Towe offered two committee bills and said that it takes 3/4 of the committee to introduce these bills. He moved that the committee authorize the introduction of the bills. The motion carried unanimously.

There being no further business, the meeting adjourned at 11:32 a.m.



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SENATOR EVERETT R. LENSINK, Chairman  
Senate Judiciary Committee



Date 2/15/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)			✓

Each Day Attach to Minutes.

Please sign & return to Secretary's Office

SENATE Insurance COMMITTEE

BILL \_\_\_\_\_

VISITORS' REGISTER

DATE 2/14/98

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Gino Van Tolon	North. Illinois Ins. Co.	414	<input checked="" type="checkbox"/>	<input type="checkbox"/>
E.H. Bales	Montana Chamber	420	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Joe Moriarte	" "	430	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Mahoney	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Messia Hunter	Better Business	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marjorie Kinnaman	" "	409	<input type="checkbox"/>	<input type="checkbox"/>
S. Graham	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Walter Baker	" "	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carpe Borshen	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John L. Mott II	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John R. Baker	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marvin Miller	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Al. Brown	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
W. L. Smith	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Susan Lee Haver	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Hill	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Smith	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Diana George	Met. Life Ins. Co.	409	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tom Hays	County Attorney	482	<input checked="" type="checkbox"/>	<input type="checkbox"/>



# Great Falls Mercy Home

P.O. Box 6183  
Great Falls, Montana 59406

Mr. Everett R. Linsink  
Chairman  
Senate Judiciary Committee  
Capitol Station  
Helena, Montana 59601

Reference: SB409

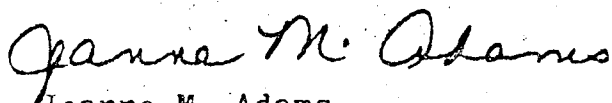
Dear Mr. Linsink:

On behalf of the Board of Directors of the Great Falls Mercy Home, a shelter for battered and abused women, I would like to take this opportunity to voice our very strong support for Senate Bill 409.

We feel that SB 409, "An act generally revising the law relating to assaults between spouses" is a very important piece of legislation. Working with battered and abused women on a regular basis, we often see the need for such an act.

Once again, we would like to express our support for SB 409.

Sincerely,



Jeanne M. Adams  
Representing Mercy Home  
Board of Directors

cc: Judiciary Committee members

52407

1978

MISSOULA TWCA BATTERED WOMEN'S SHELTER

Jan 1 to Dec 31

WOMEN AIDED 129

Children 169

Total 298

Averages: 28 Women & Children a month

3.5 days is length of stay

Residence

Missoula City & County 77%

Out of County 15%

Out of State 12%

MARITAL STATUS

Married 68%

Divorced 08%

Separated 10%

Single 14%

RACE

White 89%

Native American 10%

Other 006%

WOMEN AGES

-- To 18 008%

18 - 25 38%

26 - 40 46%

41 - 65 15%

66 - up 0

Results of Aid

Returned to situation 28%

New Living arrangements 50%

Unknown 22%

# *Gt. Falls Mercy Home*

## STATISTICS

	TOTAL
1. Unduplicated Count of Program Beneficiaries	344
1a. Total Continuing from Previous Fiscal Year	1
1b. Total New for the Year	29
1c. Total Terminated During the Year	374

2. REFERRED FROM	MONTH	TD
Church	0	14
Crises Line	14	113
MAFB Chaplain	0	9
MAFB (hosp. Police, etc.)	0	1
Opportunities Inc.	2	15
Police	1	42
Juvenile Probation	0	3
Providence Alcohol Center	1	4
Rape Action	0	1
Red Cross	0	4
S.R.S.	0	28
St. Thomas Childrens Home	1	5
St. Vincent DePaul Society	0	4
YWCA	1	5
Mental Health	0	4
Rescue Mission	0	1
Private Psych.	0	4
Women's Resource Center	0	7
Self-Referral	0	10
Out of town (shelter exchange, etc.)	0	16
Wesley Center	0	2
Blessed Hope	0	9
Hospital	0	5
Sheriff	1	15
Receiving Home	0	1
Highway Patrol	0	1
Private lawyer	0	1
Runaway House	0	1
Schools	0	1
Indian Education (board member)	0	2

3. AGE GROUP	TOTAL
3a. Infants - Under 5	3
3b. Between 5 and 12	6
3c. Between 13 and 17	1
3d. Between 18 and 29	4
3e. Between 30 and 64	4
3f. 65 and over	0

4.	<u>SEX</u>	<u>TOTAL</u>
	4a. Male	5
	4b. Female	13
5.	<u>ETHNIC BACKGROUND</u>	
	5a. White	14
	5b. Black	0
	5c. Hispanic	0
	5d. Oriental	0
	5e. Native American	4
	5f. Other Ethnic minority	0
	5g. Not Known	0
6.	<u>INCOME</u>	
	6a. Below Official Poverty Level	6
	6b. At a Near Poverty Level	1
	6c. Middle Income Locality Median	2
	6d. Upper Income	
	6e. Not Known	
7.	<u>LOCATION OF RESIDENCE</u>	
	7a. Cascade County	6
	7b. Other	3
8.	<u>USE</u>	
	8a. Number of persons served	30
	8b. Number of persons at the Shelter	18
	8c. Number of women at the Shelter	9
	8e. Number of boys at the Shelter	5
	8f. Number of girls at the Shelter	4
	8g. Total Days used in Shelter	21
	8h. Total beds occupied	37
	8i. Range of stay per days of use	1.76
	8j. Range of stay per month	1.79

9.	<u>NUMBER OF WOMEN SEEKING AIDE</u>	<u>TOTAL</u>	
	9a. Battered or Abused	5	
	9b. Transcient	3	
	9c. Transcient and Abused	1	
10.	<u>AID PROVIDED</u>		
	10a. Shelter		
	10b. Meals	207	
	10c. Transportation		
	Referred to and helped by:		
	S.R.S.	Mental Health	
	Private Lawer	Other Shelter	
	Legal Aid	Fish	
	Opportunities Inc.	Hospital	
	Crises Center		
	Womens Group		
11.	<u>RESULTS OF AID PROVIDED</u>	<u>TOTAL</u>	<u>TD</u>
	11a. Legal action for abuse	3	29
	11b. Has/will seek professional counseling for abusive situation.	0	21
	11c. Returned to husband or boyfriend	5	40
	11d. Found alternative to abusive situation	1	48
	11e. Continued travel ng	1	35
	11f. Found home	2	27
	11g. Found home and job	1	13
	11h. Hospitalization	0	0
	11i. Did not report back	1	18
	11j. Returned home to family	2	6
12.	<u>VOLUNTEER HOURS (to date)</u>	24,013	<u>HOURS</u>
	12a. Houseparent	384	
	12b. Relief Houseparents	94	
	12c. Volunteers	275	



# STANDING COMMITTEE REPORT

February 16

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MR. President

We, your committee on Judiciary

having had under consideration Senate Bill No. 404

Respectfully report as follows: That Senate Bill No. 404,  
introduced bill, be amended as follows:

1. Title, line 6.  
Following: "DAYS TO"  
Strike: "15"  
Insert: "20"

2. Title, line 9.  
Following: "WITHIN"  
Strike: "15"  
Insert: "20"

3. Page 2, line 11.  
Following: "19"  
Strike: "15"  
Insert: "20"

DO PASS

(Continued)

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4. Page 5, line 3.  
Following: "10"  
Strike: "15"  
Insert: "20"

And, as so amended,  
DO PASS

.....Everett R. Lensink, Chairman.....

# Spouse abuse issues for Legislature

The fact that Oregon, along with a handful of other states, has done away with marriage as a defense for rape was the most important information to come out of the celebrated trial between Grela and John Rideout in Salem, Ore. The trial focused attention on the issue of violence in marriages. It's an issue Montana legislators will be asked to deal with this session.

The 1977 Legislature requested a study of the problems and needs of battered spouses and their families. That study has been completed, and a statewide Spouse Abuse Task Force formed last April has reviewed it. The task force has several proposals for the Legislature.

Because of the Oregon trial, the most public attention probably will go to the proposal to change Montana's rape law. The proposed change wouldn't make Montana law identical to the Oregon law; but it would amend state law so the charge of sexual assault and sexual intercourse without consent could include married people who have separated and are living

apart. Married couples living together would not be affected.

But other proposals in the package dealing with battered spouses deserve more attention. Those that come to mind are proposals to acquire statistics on battering and to change procedures dealing with temporary restraining orders.

An essential initial step for handling battered spouse problems is to learn how extensive the phenomenon is. That sounds elementary, but it's not easy to do now. No one knows — not law enforcement, social services or mental health agencies — how much spouse abuse there is in Montana. Those records that are kept on abuse are inadequate. Legislation is needed to assure the state will have some statistics to work with in the future.

A proposal concerning temporary restraining orders also deserves close consideration. Currently, a battering victim can get a temporary restraining order to keep the spouse from the home; but there is a catch. A restraining order is

available to a victim only upon the filing of another action, a criminal complaint or a petition for separation or dissolution of marriage.

The spouse abuse task force recommends legislation that would allow a victim to get a temporary restraining order independent of an action for divorce or separation. That makes sense. The emphasis thus would be placed on protection of the battering victim rather than on the break-up of a marriage.

Two other proposals the Legislature will be asked to consider are: permitting suits for damages resulting from physical and mental injury from battery by a spouse, and providing communities with counseling, shelter and education services for battered spouses. The services would be locally controlled and no state funding would be involved.

The Oregon couple's rape trial and their subsequent reconciliation make interesting reading. But attention in Montana now needs to turn to less dramatic stuff.

Yellon's Peter. These stories begin a series dealing with battered women, the subjects volunteered to talk about their experiences. Names have been withheld to insure the privacy of the subjects.

A list moved slowly toward her face. Then a flash of light exploded before her eyes. Another set came and another and another. . . . A pair of high followed each.

Splintered wood and chirped about a prang from somewhere and seemed to float about her head.

There was motion but not a light source. Someone seemed on the distance. Hows lands but more were felt.

The woman's beating moved as if it were a brutal ballet done at half-speed.

"It really happened fast but a light source to go in slow-motion," said Mrs. X. "I thought I was in a dream. When I realized what was happening, I threw my arms over my face. I thought I heard a low-keyed scream but they were mine. I just stood there. I honestly couldn't do a thing."

Twelve many battered women. Mrs. X didn't feel back.

Speed wanted out of her tired, three-month marriage and asked for a husband to leave. He blurted out a yes, severely cut and bruised but only, smashed a coffee table to pieces and crushed a vase in the evening. Before he stopped a car to drag her, bleeding profusely, into the kitchen and forced her to give birth, consent to his taking to town and to her belongings.

After he left, she and her two young children (from a previous marriage) lived in their nightgowns and an hour through shivering snow on the porch.

Central walls and knotted wood, and the only remaining job was to move the furniture. Half a year later, in the pre-dawn, a knock came.

degradation, and memories of the "hateful look" of her husband, the fear in the eyes of her children and the early chills of nurses outside her hospital room.

"She'll go back to him. They always do. I wonder what she did to deserve it," the nurse observed.

After three days in the hospital, what particularly distressed her was the comment of her doctor: "You should go back to your husband. He didn't hurt you that bad. He could have beaten you much worse if he'd wanted to."

But she didn't wait around for the second beating. She brought assault charges against her husband and divorced him.

She learned there's a "social stigma" attached to being a battered spouse, even if one only briefly.

"People think it's your fault, you deserve it," she said. "They categorize you as bunnies and frisky and out for food stamps, welfare — all you can get for nothing."

Here is a local horror story — and typical. But there are others. Mrs. W was pushed down half a flight of stairs and after a throw over the balcony of a two-story apartment, Mrs. Y was thrown through a glass door. Both were repeatedly struck in the stomach with a broom.

Some quick thinking by Mrs. Z saved herself from a shotgun death. She and her husband were quarreling. He located the weapon and started loading it.

"I wasn't afraid of dying," she said. "All I could do was picture my children coming in and seeing their mother's body splattered all over the room."

So she screamed to her husband, "If you're going to kill me, why don't you do it with your bare hands." He beat her into unconsciousness.

This kind of violence has been steadily coming out of the closet nationwide all ages, social, economic, racial and religious groups.

National statistics indicate one out of four women, whether legally married or not, are physically abused by their mates, according to Diana Mann, a Court of Conciliation counselor. The estimate rises to a third counting women verbally intimidated or threatened by pulled punches and clenched fists, she said.

The battered women interviewed had high school educations, were from middle-income homes, and ranged in age from 28 to 38. Their courtships were as short as one month to as long as a year. None was involved in a teen-age marriage. All expected of marriage what most people do.

They thought they knew the men they married and commonly described their mates as "kind, considerate and charming."

But after the wedding things changed. As Mrs. X said, "He was totally selfless, a big buddy to my children. Then right after the marriage, it was like Jekyll and Hyde. The kids and I couldn't do anything right."

What causes the change?

For years common belief held that men were driven to such behavior by nagging women and they had a God-given right to discipline their spouses. Besides, it was the right women enjoyed the beatings — that's why they seldom left their husbands or pressed criminal charges against them. These reasons are all in this said Mann, yet difficult to eradicate.

The battered women staunchly added, "We're not masochists. That's ridiculous. Nobody likes to be hurt."

Child abuse seems at root of spouse abuse. Almost always one of the marriage partners has been abused, physically, mentally or both while growing up. Of the four women interviewed, two were abused as children; the others suspect their husbands were.

Mental cruelty had particular impact in the lives of the two women interviewed in childhood. As a teenager

one was tormented with parental glances. "You're fat, ugly, stupid, good-for-absolutely nothing but sleeping around." The other heard, "You're neurotic," as a staid reply to her insecurities about maturing.

Consequently, the woman felt inferior and was married — more than once — to men who abused them and nourished that sense. They mistakenly believed themselves deserving abuse and at fault, which are common reactions among battered women, according to Mann.

An emotional and psychological dependency on the abusive environment typically evolves, the counselor explained. It becomes an ingrained part of life, she said, but why? That's a puzzle being unraveled by battered women and professionals like Mann.

The women interviewed blamed in part, sex stereotypes. "Like most women, I was taught to be dependent," said one. "I thought I couldn't take care of myself, after all I was just a woman. I needed a man and I panicked if I didn't have one."

Another said, "Men feel like you own their property. You have no life outside the home. The world is to revolve around them."

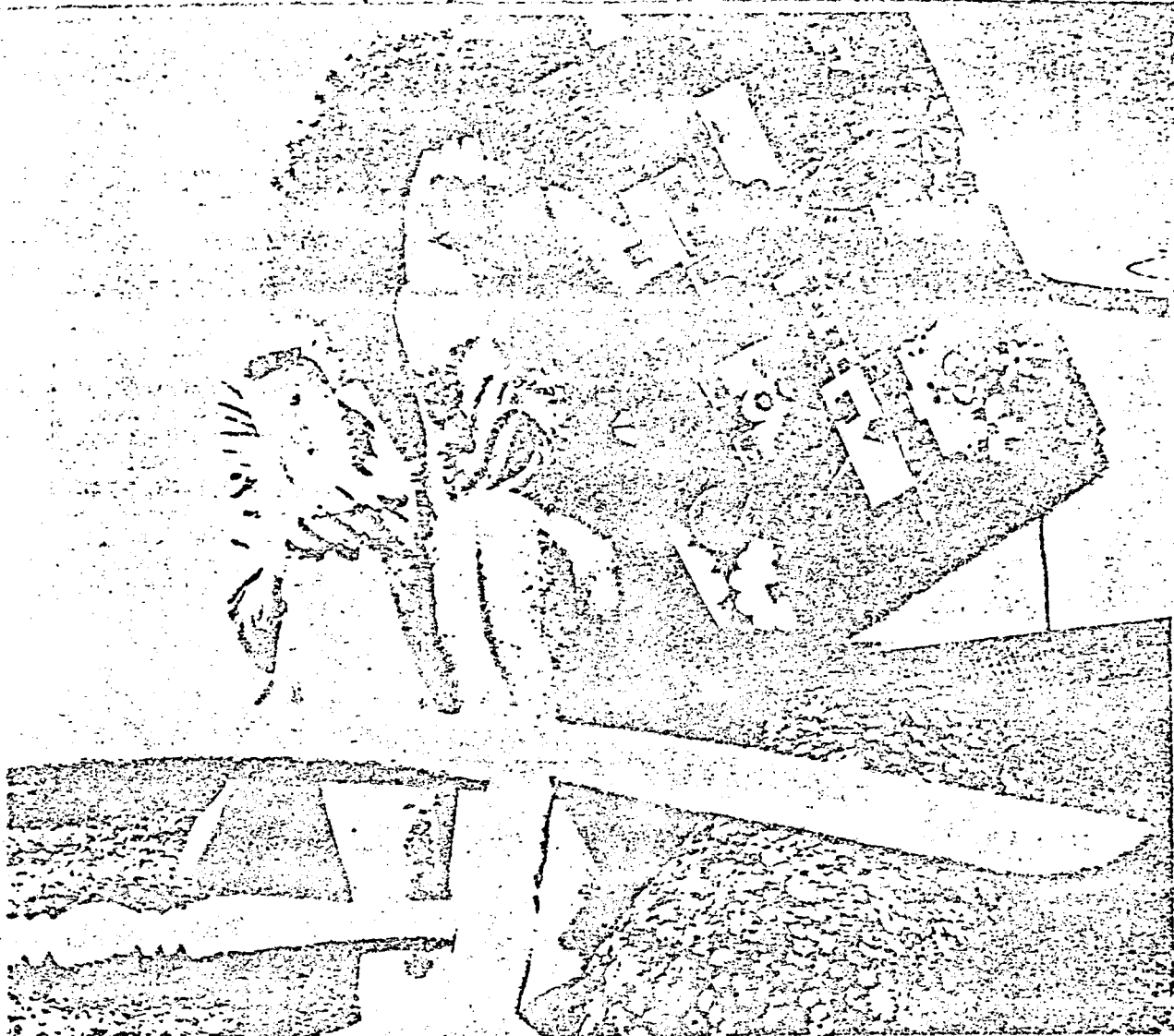
Three of the women have escaped their abusive situations. Two of them claim they will never remarry. The other is uncertain.

The fourth is still freeing herself. She is recovering from recent injuries, divorce, going through therapy, fighting for custody of her children and simply supporting them. Stress has driven her to dream of revenge.

Slowly, weighing her words, she confessed, "I've started fantasizing about different ways I could get even — hurt my husband as he has hurt me. I feel if he ever came to my home without contacting me in advance, I could take a gun and shoot him as he walked through the door."

Next: The battering cycle.





## Batterer, also victim of parental abuse, found admission of problem shattering

The word "batterer" sticks in his craw — because he is one.

Feelings of guilt and shame shoot through him at its mention. He associates the label with lowlifes like child molesters and with all he disrespects in the human character.

Admitting to being a wife-beater was as shattering to him as the confession of addiction is to an alcoholic.

He never pictured himself in the role. He's in his mid-thirties, educated, upper middle class, a business ace and a "liberated man," supporting equal rights and doing his share of domestic duties.

He was not caught up in the macho image of domination and aggression. And when he realized his problem, he sought therapy. These qualities make him atypical of the average batterer, professional counselors say.

What makes him typical is his background. He suffered severe whippings as a child and watched his mother beaten by his authoritarian father. He was his mother's soft shoulder and abhorred his father's use of violence to control the home. Even so, his father's nature crept out in him.

His second wife's strong, independent personality threw him for a loop. Then they disagreed she stood up for herself whereas his first wife, whom he married but never abused, withdrew and dissolved into tears.

The second wife had a temper and could unleash a verbal tirade sometimes filled with "I hate you."

He couldn't cope with an outburst. He'd grab her and shake her, pull her hair, bloody her nose. He'd become

petty, resorting to childish revenge like dumping cold water on her when she was bathing.

He felt "proud" after roughing her up, not because he'd effectively exerted authority, but because he'd demonstrated restraint. He never seriously injured her.

In a sad, hesitant voice, he explained, "I'd really been abused as a kid. One time I was beaten until blood ran down my leg. After I'd beat her up, I'd say to myself, I didn't abuse her. She doesn't know what real abuse is like."

"I'd compliment myself because I'd dealt out less punishment under similar circumstances than my father would have. I was treating her like a child. And spanking a child is an accepted behavior modification."

"I was trying to control her and not just with violence but with the threat of it."

Her threats of police, restraining orders, divorce "didn't make any difference" to him.

"I'd just get so darn mad I didn't care what was going on," he admitted readily. "I guess with someone you love you don't put up any protective barriers."

"I was being verbally attacked and it hurt. But just because someone is tongueing at you doesn't give you the right to smack them. I've got a tongue to use, too. If (the abuse) was not my wife's fault, it was mine."

He lost power over his own behavior and this seemed to bother him greatly.

"I don't want to be the way I was; I want to be in charge of myself," he

said as though issuing himself a command.

Through professional counseling, he's learning to "fight back verbally," to leave an argument for a few hours and cool off, and to take less personally his wife's attacks, now realizing they may stem from frustrations outside their relationship.

His self-image has been damaged but not destroyed. He regards himself as "basically kind, gentle and loving," effective at work and in most other areas of his life.

He sees both himself and his wife as victims, she of spouse abuse and he of child abuse and society's traditional definition of masculinity.

"Men have to realize their wives aren't the enemy," he said, growing a bit philosophical. "They have to stop seeing themselves as super jock macho men playing at life like a football game. It's okay to clip an opponent but you don't spike a member of your own team and that's what a wife is."

"A husband and wife are like two plow horses. They have to pull together to get anywhere."

He's not sure how long his own "team" will be pulling together.

"I've driven her away from me in some ways," he exclaimed quietly. "There's less affection, less 'I love you's' said between us. The realization that we might never pull out of the marriage hangs over us."

"Our sex life has been affected. A little roughhousing between a couple can be good. It can turn into kisses, tenderness, gentle lovemaking. But not for us anymore. My wife is afraid."

# Police intervention no solution to abuse

The radio squawks out "family disturbance" and gives an address. With that, police are enroute to a front of the most unpredictable nature — the domestic squabble.

Officer Dan Ingersoll makes the ride once or twice a night or to others on the 3 p.m.-4 a.m. shift. Many, but not all, of the incidents involve spouse abuse.

A five-year man with the Great Falls Police Department, Ingersoll has been all over town on abuse cases, "from the Country Club district to the lower southside."

But the statistics of each incident are never the same, he said, nor he described a typical situation:

"The man is usually drunk. Sometimes the woman is too. Both are acting irrational. There are broken lamps, broken furniture. The woman may be crying.

"A lot of times the man would just as soon fight us. He tells us we have no right to be in his house. We're interfering in his life. But our right to be there is that someone called us."

Most times a neighbor or the woman calls in. But sometimes the callers are the couple's children and "that's the sad part," said Ingersoll, visibly touched by children that have to watch their parents "make fools of themselves."

Children are usually glad when police arrive. Ingersoll hears cries like, "Please don't let Daddy hurt Mommy" or "Mommy's drunk again and Daddy's mad."

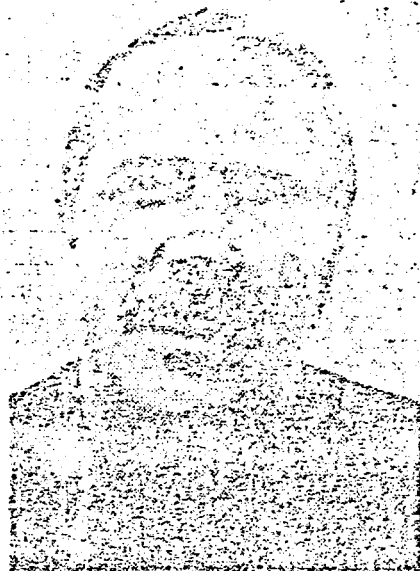
"Kids seem to know where the problem is, who's at fault," he sighed.

He steers children away from the fight scene, comforting them as best he can. But like all officers he doesn't have much time for them because the adults require attention.

Unless there's a manpower shortage, two officers respond to a family disturbance. They separate the couple and hear out their complaints.

"We try to be friendly and help them rationalize their problems," Ingersoll said. "After a few minutes most of them cool down."

If one or both remains hostile, the officers suggest they separate for the night. If women have nowhere to go, they



Dan Ingersoll

and their children may be taken the Great Falls Mercy Home for Women and Children — an emergency housing facility created in spring 1977 and a godsend to police.

But some women — and occasionally a man — get a ride to the hospital.

Rarely do police make an arrest, although spouse abuse constitutes assault. Ingersoll's superior Lt. Tim Skinner explained why.

"If we arrest a husband that will probably intensify the couple's problems," he said. "The man might only be in jail overnight. He's got a job to go to in the morning and if he doesn't show up that may jeopardize the family income. Jail doesn't end the problem or the marriage. It can become just another wedge between the couple."

Besides, most husbands leave before the police come, Ingersoll said. In that event police explain to the wife how to make a complaint.

The woman must give her account in a sworn statement. Then the responding officers' reports are compared to hers in order to decide if a crime has been committed and probable cause exists for filing a complaint.

Most assaults are misdemeanors and complaints are filed in city court if police investigated the case. Serious assaults where life or permanent injury was threatened are felonies and complaints are filed with the county attorney.

"We advise women to wait two or three days before signing a complaint," Ingersoll said. "It gives them time to think it over. They often make up with the guy and back out."

Financial dependency often figures into that decision, Skinner noted.

Police can sign a complaint against the husband if he's still around when they arrive and if it's apparent a bartering has occurred. Red marks on a woman's throat or a man's bruised knuckles are some of the telltale signs, Ingersoll said, adding that at times the man confesses.

If a second beating occurs the same night, an arrest is usually made, he said.

Police have some regular clients whose problems and responses to them seem never-changing. And a number of husband-wife disputes are purely "screaming matches," between couples 20-25, Skinner said. If older couples are fighting, alcohol is usually a factor, he commented.

There were 49 family disturbances and 40 reported assaults in September, probably only one-twentieth of those that took place, the lieutenant said. He estimated more than half of the incidents involved spouse abuse.

Family disturbances are a risky, sometimes deadly business for police. They face assault, even by the woman, who may suddenly side with her husband. More officers are killed handling domestic cases than any other.

Domestic violence is costly in time and money. Skinner said an officer spends an average of 32 minutes, including paperwork, on a domestic case. And, he said, the city spends from \$20-\$30 per incident. (This includes the officers' salaries, equipment, gasoline, car maintenance and overall station expenses.)

And police have no solutions. "We're a crisis intervention force," Skinner said. "We resolve the problem only temporarily."

Counseling services are the answer, the policemen said. They suggested such measures as court-mandated counseling for offenders and a creation of teams of professional counselors who could take over when police leave the scene.

## Cover feature stories

by SALLY SAUNDERS

### Men occasional abuse victims also, police say

Men are battering victims in only about 1 percent of the reported spouse abuse cases, according to local police.

Occasionally, a small man may be knocked around by a large, domineering woman. But more commonly some trouble in the relationship, perhaps abuse by the man, causes the woman to retaliate. And her response usually disables the man.

"The woman will wait her chance and maybe hit the guy over the head with something and knock him out," said Lt. Tim Skinner. "When they go, they go all the way."

Patrolman Dan Ingersoll related an incident that seems right out of a cartoon.

A husband came home drunk late one night and he and his wife quarreled over his behavior. She shoved him outside and locked the door behind him. He was tired and wanted to go to bed so he decided to crawl in a bedroom window.

But she was waiting for him, rolling pin in hand. As he stuck his head inside, down came the rolling pin, splitting his head open. He spent the night in the hospital.

GFT 1/8/79

# Abuse cycle can trap spouses

By SALLY SAUNDERS  
Tribune Staff Writer

Spouse abuse is a vicious cycle, repeating itself time and again, sometimes trapping couples into years of misery and violence.

The cycle is touched off by the buildup of stress — situations, small or large, according to Diana Mann, a Court of Conciliation counselor. A social worker, Mann conducts group and individual therapy sessions for battered wives and has just started a group for batterers.

## Second in a series

She explains the cycle: Tension between the couple escalates for days, weeks, months before something, perhaps as inconsequential as a roast too well done, draws the boiling point near.

Verbal abuse begins. The woman finds a clenched fist thrust in her face

or gets shoved up against a wall.

The tension mounts, blamed on such outside forces as a demanding boss or meddling relative. Then comes the beating, triggered by whatever — a late dinner or a request to end the marriage.

Unless the woman is hospitalized, the man rarely considers his actions to be wife beating — an assault. But later he's sorry and his pleas for forgiveness move the couple into the "apology" stage of the battering cycle.

At this time the man is calm and loving and swears he will never hurt his wife again, Mann said.

The husband may shower his wife with gifts. As one local battered wife recalled, "After the beating, there were lots of presents, lots of money, lots of 'anything you want, honey.'"

Mann calls this apology stage "the hooker." She explains: "The woman says to herself, this is the man I married, kind and loving. The husband sincerely believes his own apology. They both do. They're hooked into continuing the relationship. And within a few weeks, maybe a few months, the whole thing happens all over again."

The rerun is equally as bad or worse. In the battering cycle only the time intervals between beatings and harmony seem to vary much between couples.

Law enforcement agencies find the "hooker" phase exasperating. This is the time women drop assault charges against their mates after law officers and prosecutors have worked to prepare a case.

As the cycle plays on, the man thinks he has power to control the situation. But so does his wife.

"They place responsibility for their behavior on some outside person or event," Mann said. "They don't examine their relationship nor control their own behavior."

Batterers generally are caught up with the macho image of aggression and authority, Mann said. They have a genuine gentle, loving side but it's shown on their terms, as though a reward for their spouse's good behavior, she explained. They rationalize their behavior by blaming the wife, and the more the beatings, the more she accepts the rationale, Mann said.

The men also suffer from low self-esteem, the counselor and three battered wives maintained. The battered women said their husbands went from job to job, some of them high paying, but were never satisfied with the



work, their performance or themselves. One woman said her husband appeared jealous of her ability to manage a household and hold down a part-time job.

But what are the solutions?

The key is education about the battering cycle and the prevalence of abuse, Mann believes. "People have to know if they fit the cycle in order to be helped," she said. "They have to want to regain control of their lives and be able to identify their feelings and what's causing them."

They need someone to listen to them, usually a professional therapist or minister but even an empathetic friend is beneficial, she said. And the couple should try calmly discussing the problems.

Mann's best tool is group counseling. At first her sessions are get-acquainted chitchat. Then as trust builds, people open up, share experiences. "This makes them feel less alone and helps improve their self-esteem," she said. "They feel somebody cares."

But people can be led only so far. They must accept final responsibility for changing their behavior, Mann said. If they don't, the old pattern is quick to return and is oftentimes played out with new mates.

GFT Jan. 9, 1979

# Center serves as a place to go for wives who've been beaten

By SALLY SAUNDERS  
Tribune Staff Writer

Where to go? That's the thought always churning in the minds of battered women deliberating escape from their situations.

Going home isn't as easy as it perhaps once was. The mobility of the population has spread families farther apart — in miles and sometimes in attachment. And the welcome mat may just not be out.

Besides, leaving is difficult. There are emotional ties with the abusive mate. After all, emotion helped bring the man and woman together.

## Third in a series

But the greater consideration is financial security, particularly if children are involved. How will I support my family? That's a monumental question the battered woman must resolve. And it usually binds her to more abuse.

A local battered woman endured six months of mental torment after she'd privately made a decision to leave her husband. She had to wait for her injuries to heal before finding work. Even with her job she needed food stamps to help support her children. She'd never been on welfare before and the experience was humbling.

Another battered wife who was divorced is just eking out a living for her family despite a fairly well paying job. Her husband left her with several debts, including court costs for the divorce and medical expenses that he'd been ordered to pay.

She's eligible for welfare but refused it. "I wasn't raised that way," she said. "I'm a product of the work ethic."

Tales like this are told over and

over at Great Falls Mercy Home For Women and Children — an emergency housing facility for battered and transient women without funds.

At the end of September the shelter had cared for 157 women (only a few were transients) and 133 children since its opening in spring 1977. By that time 106 families, most of them local, had been served.

One battered wife claimed, "I'd be dead if it weren't for that place."

"We never tell women how to solve their problems," said Caryl Borchers, president of Mercy Home board of directors. "We help them get counseling, find jobs, provide some transportation and a safe place to stay."

The shelter buys time for troubled women whatever their age or marital status. The length of stay is usually a few days, but some have stayed three or four weeks.

Those who need help can reach the shelter by calling the Crisis and Information Center, which is listed in the telephone directory. Mercy Home has an unpublished number to insure its clients' privacy and safety, Borchers said.

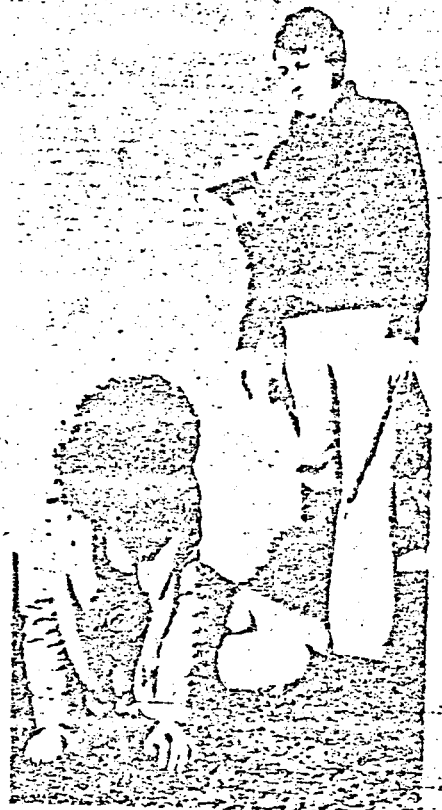
The shelter was the first of its kind in the state. Missoula has since established one and Billings, Butte, Miles City and Glasgow have plans for shelters or "safe homes," private residences where abused women can stay, Borchers said. Butte, she noted, has had safe homes for five years.

Mercy Home is one of 50 shelters across the nation, Borchers said, adding that a number of requests come in from other communities asking how it operates and how it got started.

The shelter came about as the result of community effort. The project was launched with a \$5,000 grant from the St. Vincent dePaul Society and support from 22 community service agencies. Some of the initial funding

also came from city churches, Borchers said, and although Mercy Home has become a United Way agency, church donations are still a source of revenue.

A housemother and relief staff are salaried but volunteers have been Mercy Home's staple. As of the end of September, volunteers had logged 21,000 hours.



Facilities such as the Salvation Army and Rescue Mission could take care of men down on their luck, Borchers said, but there was no place for transient or abused women, particularly those with children.

The shelter has filled that gap in community services.



Some battered women say

# Legal system unsympathetic

By SALLY SAUNDERS  
Tribune Staff Writer

To battered women the legal system seems only salt on already painful wounds.

Women complain bitterly about difficulty and delays in securing restraining orders and pressing assault charges, not to mention the occasional indifference of police and sheriff's deputies.

But a number of women perceive their worst enemy to be the county attorney's office and are downright hostile when describing their dealings there.

## Fourth in a series

County Attorney J. Fred Bourdeau seemed amazed when these feelings were reported to him. "I just can't believe that," he said.

One woman referred to Bourdeau as "Freedom Fred," a tag she heard him called around the courthouse by those disenchanted with his effectiveness as a prosecutor.

Bourdeau countered the label by saying, "I've never been accused of being that liberal. There's 150 men in Deer Lodge who wouldn't agree with her."

But his office is no laughing matter to the women.

"I took a cab straight from the hospital to the county attorney's to press charges, walked in with my arm in a sling and they wouldn't even let me in the door," said one woman, bursting with anger.

Another woman, almost as angry, said she went to the county office three days after a beating for which her husband was arrested. She went to get her restraining order reinforced and to press bigamy charges.

"I talked with a deputy attorney and at first he was righteously indignant," she recalled. "He told me he'd get me a divorce and make my husband pay for my medical expenses. Then he sent me out to get a copy of my marriage certificate. When I came back 20 minutes later, it was like Jekyll and Hyde."

"The deputy said he'd talked to someone higher up and was told not to press bigamy charges because the paper would make a circus out of it."

"His final words to me were, 'The next time you see your husband tell him to come in and see me.' Well that's like walking up to a wolf and saying, 'Don't bite anyone.'"

With aid of private attorneys, the women got restraining orders issued by district judges.

One of the women waited three weeks before the order was served on her husband and ended up having to locate him herself. She is now divorced but the other woman's decree is still pending.

A third battered woman blames three of her beatings on the county attorney's office for delaying restraining orders and on the courts for failing to back up the orders once they were in effect.

Her husband was eventually brought up on assault charges, pleaded not guilty and was released on his own recognizance. She's angered by the small penalty, particularly because her ex-husband remarried soon after the divorce and subsequently seriously beat a second wife.

Bourdeau found the situations described by the women "hard to believe," but said he was "personally

aggravated" if they had occurred.

"No one is denied access to this office," he said.

The county attorney was handicapped in addressing the complaints because the women's cases could not be revealed in order to protect their privacy. And in part, the women wished to be anonymous because they feared reprisal from Bourdeau's office should they have further involvement with it.

Abuse cases are treated like other assault cases, said the county attorney, who has total discretion as to which cases are prosecuted. His office handles felony and misdemeanor assaults under jurisdiction of the sheriff's department. (Misdemeanor assaults under police authority are handled in city court.)

Before a complaint is filed an investigation is made to determine if a crime was committed and if so, its severity, he said. Usually lawmen have completed the investigation before the case reaches his office.

The bulk of an assault case rests on law enforcement findings, Bourdeau said, although social service agencies and medical reports are sometimes sources of information. Also considered is the complaining spouse's account of the incident given in a sworn statement.

"And there's always the other side of the story," Bourdeau said in noting his staff tries to talk with the accused man before a complaint is filed. Some women come in "angry and upset," he said, and may just be looking for revenge.

Usually the county attorney's office waits 24 to 48 hours before filing a complaint. "This allows a cooling off period," the county attorney explained. "It gives the woman time to

evaluate her situation."

And women frequently "back down. That's the biggest problem we have with prosecutions," Bourdeau pointed out. Four or five women have dropped charges within the past few months, he noted.

Bourdeau said that in many instances he's readily agreeable to a woman's change of mind — provided the assault was not serious. In those cases, dropping charges may mean preservation of a marriage or a family, which should be encouraged, he maintained.



## Battered woman says she battles lawyers too

Her voice sounded weary, tired of struggle. Emotion barely allowed her latest news to come out: "My lawyer is threatening to sue me."

She's been fighting six months to divorce her abusive husband. Indifferent attorneys, unexplained delays and broken restraining orders have been common course.

Although she has children, her attorney didn't ask for temporary child support. Her injuries limit the work she can do and forced her into a low-paying job. Food stamps must supplement her income.

She's endured mental harassment from her husband. He's appeared unannounced at her home and in her hospital room, violating restraining orders. She still fears for her safety.

All this has put her mental health in such a precarious state she's had to be hospitalized periodically to relax.

Her case began after a beating last spring. Because of the inaction of the county attorney's office, she had to hire a private attorney to get a restraining order against her husband.

She wanted a divorce but her husband's last-minute pleas caused her to balk. Then came two more serious beatings. They convinced her to go forward.

But her attorney was out of town so

another was hired. An immediate restraining order was issued and divorce proceedings were begun. Aside from the restraining order violations being officially noted for her file, "nothing much else happened."

She claimed money is the reason. "I don't have enough," she moaned.

She paid her attorney a few hundred dollars; the court ordered her husband to pay about the same amount. But she didn't have enough for the several hundred dollars remaining on her tab.

Legal aid couldn't help. "It's federally funded and can't accept any payment," she explained. "And with me, the court could order my husband to pay divorce costs."

An installment plan acceptable to her attorney and affordable for her couldn't be worked out. He threatened suit; she started looking for another attorney.

"Too busy, sorry" became a familiar refrain and not always a legitimate one, she believes. "Lawyers think first of their retainer," she claimed, adding that one even asked what kind of car she drove.

After a half dozen or so turndowns, she finally got a lawyer. But she still believes she got the runaround and feels she's not been the only one.

# Spouse abuse can hurt the children, too

By SALLY SAUNDERS  
Tribune Staff Writer

Five-year-old Todd wasn't puzzled by the bruises and bandages on his mother's hand nor by the cast on her wrist. He'd heard the argument, watched his stepfather beat her up. For that matter, he'd seen his own father do the same.

The day his mother came home from the hospital, he ran to her asking, "Mommy, why didn't you stay with my Daddy? He only gave you black eyes."

Questions like that gnaw away at battered women with children. The mothers wonder how their children are affected by a violent home life.

## Final in a series

What scares them is the connection between a childhood spent in an abusive environment and spouse abuse. Almost always either the battered woman or the batterer has experienced or witnessed abuse as a child.

Will my son grow up to be a batterer or will he hate men? Will my

daughter become a battered wife?

"My son makes cracks about men," said a local battered wife. "He's cynical. Yet for all the bad things he's seen, he's still a pretty good little guy, pretty compassionate."

Another pre-school boy felt guilty because he couldn't protect his mother. He's frightened of all men but most of all his stepfather, from whom his mother is now separated.

"He wakes up in the middle of the night with fright in his eyes," his mother related. "He keeps screaming that his stepfather is in the house...I could just die when it happens."

The boy is undergoing therapy and his outlook seems to be improving. As his mother said, "We've established a good verbal rapport. He's open and honest about what he feels and sees me as a person with feelings and problems."

"He comes to me when I'm down and says, 'Mom, don't cry, don't be sad.' And I tell him I'll work it out." A local battered woman gave up custody of her son because she couldn't stop abusing him.

"I blamed him for everything," she admitted. "I'd tell myself if it weren't for him, my life would be better. His father abused me and I hated him. So I hated his son."

The boy is now thriving in a foster home and mother and son have a "loving relationship," she said.

Still residing with her is a daughter from another marriage. "I've turned her into an independent person," the woman continued. "I abused her a couple times but nothing like my son. I loved her father even though he abused me. So I loved her and was more attentive to her from the start."

This mother thinks her problems are resolved.

Yet she well remembers the abusive environment that marked her childhood. She vowed never to allow a man to abuse her as her father abused her mother. To assure her pledge, she tried to dominate her husband. That didn't work for her; she worries if her daughter may try something similar.

Besides her broken self-promise is

a wealth of leftover bitterness. "I'm extremely bitter about my childhood, more so than about being a battered wife," she said. "All us kids were abused along with my mother."

Now this battered woman wonders which will be the greater in her own children's hearts — bitterness or forgiveness.



# State rape law change designed to aid spouses

EDITOR'S NOTE: They formerly were called battered wives. Modern jargon has changed that to battered spouses. But regardless of how it is phrased, wife-beating is still a problem in Montana and Great Falls. A series on this topic will begin Sunday in the Tribune Family Living Section.

By SALLY SYNDERS  
Tribune Staff Writer

A change in Montana's rape law — but different from Oregon's well-publicized statute — will be thrown in

the hopper during the current legislative session.

Under the Montana Criminal Code, the criminal definition of "sexual assault" and "sexual intercourse without consent" excludes spouses.

Sponsored by the Montana Task Force on Spouse Abuse, the legislation would affect spouses who have separated because of marital problems and are living apart, according to Caryl Borchers, Great Falls, task force coordinator.

However, the proposed law would

not affect married people living together.

A few weeks ago an Oregon man was acquitted on a charge of raping his wife. His case is believed to be the first of its kind and tested a recent Oregon law doing away with marriage as defense against rape.

The rape proposal is one of five pieces of legislation backed by the task force expected to be introduced this session.

The task force, which spent the past year researching spouse abuse

statewide, is particularly pushing legislation providing for gathering statistical information about spouse abuse and creation or expansion of community services for battered women and their children.

The extent of spouse abuse is unknown because inadequate records or none at all were kept by agencies involved with the problem, explained Borchers. A proposed bill would require such agencies to keep records.

High hopes are held for a bill to provide communities with such services as counseling, shelters and advocacy and education programs, Borchers said. The services would be locally controlled and provided only if funding could be obtained without additional state appropriations.

Another bill concerns restraining orders, which battered women have had difficulty securing. Currently temporary restraining orders are available to victims of domestic assault only upon the filing of another action, a criminal complaint or a petition for separation or dissolution of marriage.

The task force is asking that temporary restraining orders be issued independent of an action for dissolution of marriage or legal separation. Its proposal would allow court orders restraining a "spouse" or "cohabitor" from entering the home or from disturbing the peace or harassing a spouse or the male's children when the petitioner can show by affidavit the probability of harm or injury.

Currently one spouse cannot sue the other because in the eyes of the law they are one person. This is called interspousal immunity and the task force calls for legislation altering that doctrine as it concerns intentional interpersonal torts. (A tort is

damages, either to person or property inflicted on a person by another through negligence or an intentional act.)

The task force proposal would null suits for damages resulting from physical and mental injury inflicted by battery by a spouse — an intentional tort. These injuries may result in hospital and doctor bills, lost work or job and increased child or householding costs.

The unity doctrine of interspousal immunity is embodied in the Law of Coverdale, the common law of England in 12th century. Its practice came over with soldiers to America and crept into 20th century law.

This old law kept women from suing their husbands for years, and it even gave husbands the right to severely discipline their spouses. A man could beat his wife with a no bigger around than his thumb, and, adding, "Thus comes the punishment."

But the law considered a woman separate from her mate in one regard. She was legally classified "inferior" to her husband and suing by his compulsion. Warts add