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# **BREAKING THE CYCLE OF VIOLENCE**

**A REPORT ON SPOUSE ABUSE ON OAHU**

**AND**

**RECOMMENDATIONS FOR CHANGE**

**Prepared by**

**THE OAHU SPOUSE ABUSE TASK FORCE**

**December, 1986**

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## ACKNOWLEDGEMENTS

The life of the Oahu Spouse Abuse Task Force extended to well over two years. At times, the work had to be put aside to accommodate the needs of our jobs and other requirements, but the effort was successfully sustained by the urgency of the problem and the commitment of the group.

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Finally, many of the agencies that have participated in the Task Force have already begun to implement new policies and procedures that have moved vital services closer to our goals. These initial steps give a foundation for hope that the significant changes, still to come, will be realized.

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## EXECUTIVE SUMMARY

Spouse abuse is a serious, pervasive problem for Hawaii's families and communities. On Oahu, there are over 900 domestic calls to police each month by victims, relatives and neighbors trying to stop the violence. Approximately 1,000 women each year receive protective orders from Family Court, a 530% increase over 1980. In 1984, the growing severity of the problem served as a catalyst for Child and Family Service to form the Oahu Spouse Abuse Task Force.

The purpose of the Task Force is to improve existing services to victims and perpetrators and to develop a more coordinated system to help families caught in the cycle of violence.

To do this, the Task Force analyzed local and national information regarding the nature and scope of the problem, explored alternative interventions and formulated recommendations for private and public action.

The recommendations are at different levels of specificity. Some will have already been implemented by the time this report reaches the public. The bulk of the recommendations, however, will require further attention by a core group of those agencies responsible for implementing the proposed changes. This group will focus on developing policies, practices and working agreements that will provide the operational basis for a more coordinated system.

In addition to this core group, it is hoped that there can be a cooperative planning effort by major public and private funding sources to address existing gaps and future needs.

Finally, a time-limited Intervention Project should be established, to provide the impetus for these connections and changes to occur in a timely, effective manner.

## RECOMMENDATIONS

### Police

1. The efforts of the Police Department should be based on a primary concern for the protection of the victim and on the deterrence of future violence.

2. The Police Department should adopt a policy preferring arrest in domestic violence cases.

3. Every recruit, officer and supervisor should receive increased training in family violence. Training should include information about social and psychological causes and stress protection of the victim, enforcement of laws and the use of community resources.

4. Every dispatcher and dispatch supervisor should receive increased training in family violence. Training should include the classifying of calls based on the seriousness of the assault or the threat of assault and the eliciting of information about injuries and the presence of the assailant and weapons.

5. Report forms and systems should be developed that identify all cases of domestic violence and enable assessment of the number of cases, actions taken, and subsequent disposition.

6. The quality of evidence collection in all criminal investigations involving domestic violence situations should be targeted for improvement. Special attention should be paid to the collection of physical evidence (weapons, photographs, etc.) and obtaining written statements from all witnesses.

7. Patrol officers should provide victims with a clear understanding of the process for obtaining from Family Court a protective order restraining the abuser. Victims should also be advised of the "no-drop" policy of the Prosecutor's Office once the abuser has been arrested, of the automatic review of all other cases by the Prosecutor's Office, and of the ability of the victim to initiate the criminal process by filing a criminal complaint with the Prosecutor's Office.

8. Implementation of the proposed Computer Aided Dispatching System (CADS) should be pursued as a priority within the near future.

#### Police and Prosecutor

9. The Police Department and the Prosecutor's Office should coordinate their policies and procedures in the handling of domestic violence cases.

#### Police and Judiciary

10. Training for police and judges should include information about the prosecutor's policies and procedures.

## Prosecutor

11. The current "no-drop" policy for domestic violence cases should be continued.

12. A policy statement regarding domestic violence cases should be developed by the Prosecutor's Office. The statement should cover both philosophy and procedures and should clearly communicate to both the public and other criminal justice agencies the important role that prosecution plays in formulating an effective community response to domestic violence. Emphasis should also be given to the need to support victims and to hold the abusers criminally responsible for their behavior.

13. A training program in domestic violence should be developed and implemented for all deputy prosecutors. The program should address the need for training both new prosecutors and those currently working in the Prosecutor's Office. The training program should provide an understanding of the dynamics of domestic violence and of the legal procedures and strategies for effectively prosecuting domestic violence cases.

14. The development and delivery of training should incorporate the use of both a local resource person and professional organizations of national scope such as the National College of District Attorneys.

15. Both individual training packets and periodic in-service group sessions should be utilized to assure continuous up-dating and reinforcement of training.

16. Careful consideration should be given to the development of a special unit to handle the prosecution of cases involving family violence. This should include the possibility of recruiting (both within the office and in the community at large) attorneys with a specific desire/commitment to handle these types of cases.

17. Whenever possible, cases involving domestic violence should be prosecuted vertically (one prosecutor throughout the case) to assure the greatest amount of continuity.

18. The current policy of reviewing all Section 709-906 cases referred by the Police Department should be continued and periodically reassessed for impact.

19. In the pre-trial release of persons charged with spouse abuse, there should always be the ability to attach conditions to the release on bail--conditions geared to protecting the safety of potential victims.

20. The Family Court should develop and implement a standard set of bail conditions to be used in all domestic violence cases. These conditions should give special emphasis to providing adequate protection to the victim and other family members who might be in danger. A copy of the bail conditions should be provided in writing to the victim and/or other witnesses. The Family Court should adopt a policy of strict enforcement of bail release conditions using the Intake Service Center to monitor all persons on pre-trial release.

21. The current practice of providing outreach services by Victim/Witness Kokua Services to all victims in Abuse of Family and Household Member non-arrest cases should be continued and periodically reevaluated for impact.

22. Outreach to the victims in all cases involving an arrest for Abuse of Family and Household Members should be reinstated. Support services (information, crisis counseling, court accompaniment, etc.) for victims are essential to the effective use of criminal remedies.

23. Victim impact statements should be prepared in all Abuse of Family and Household Member cases for consideration of judges prior to sentencing.

24. Victim/Witness Kokua Services should continue to serve as liaison between the Prosecutor's Office and social service agencies providing services to battered women.

25. Periodic training should be provided to all Victim/Witness Kokua Services staff on the dynamics of domestic violence, the needs of battered women, and the effective methods of providing support services for battered women.

26. Victim/Witness Kokua Services should take the lead in developing an effective and meaningful method of identifying, tracking and tabulating information on domestic violence cases handled by the Prosecutor's Office.

27. Victim/Witness Kokua Services should further explore the potential for early intervention in domestic violence situations through development of a crisis response unit located at the Honolulu Police Department.

28. The Prosecutor's Office should design a public relations campaign to raise public awareness about domestic violence and the prosecutor's important part in dealing with it should be undertaken. Ideally this should be coordinated with the Police Department.

## Family Court

29. Sentencing for spouse abusers should include both criminal sanctions (jail, fines, community service) and mandatory treatment programs.

30. Court orders regarding treatment programs should be closely monitored for compliance, with sanctions for non-compliance.

31. Protective orders should also be available in cases where there has been extreme psychological abuse or malicious property damage.

32. The time it takes for a person to get a protective order should be reduced to less than 24 hours.

33. Emergency protective orders should be available 24 hours a day, 7 days a week.

34. The form used in applying for a protective order should be revised and simplified so that a victim is able to complete the form with no or minimal assistance. These forms should be available at all police stations.

35. Protective orders should be effective for a period of up to one year rather than the present 180 days.

36. If a victim of spouse abuse fails to appear at a protective order hearing, the Court should send the victim a notice ordering the victim to appear in Court at a future date, rather than dismissing the case or issuing a bench warrant to arrest the victim for failure to appear.

37. Ongoing research and studies to measure the effectiveness of the various sanctions and treatment alternatives should be available to sentencing judges.

38. Data collection in Family Court should be improved and automated.

39. More permanent Family Court judges should be appointed to meet the growing demand of spouse abuse cases.

40. Training of judges in the dynamics of spouse abuse and the availability and efficacy of treatment resources should be improved and expanded.

41. The use of mediation related to violent acts between spouses or intimate partners is inappropriate.

42. An analysis of the appropriateness of mediating contested divorce issues where family violence has occurred is presently needed by Family Court, lawyers and mediation service providers and should include consideration of the dynamics and effective treatment of spousal violence.

43. Family Court should develop new procedures for the handling of arrest cases involving persons who are charged with Abuse of Family and Household Member. Those procedures should be more closely consistent with the requirements in Section 709-906 which require that the defendant be brought before the Court prior to the setting of bail and conditions of release.

44. The requirement of petitions in adult criminal cases should be dropped and procedures similar to those in District Court providing for oral charging by a deputy prosecutor in open court should be adopted.

45. The Judiciary should make development of an adult probation component for Family Court a high priority. This unit would assure proper supervision and proof of compliance follow-up for all adults convicted in domestic violence cases and be responsible for the preparation of comprehensive pre-sentence reports.

46. A working agreement should be developed between Family Court and the Intake Service Center to provide for the timely processing of bail evaluations and recommendations for all adult offenders charged with crimes under Family Court jurisdiction. To facilitate this, Intake Service Center workers should receive domestic violence training.

47. The Senior Family Court Judge, after consultation with the Police Department and the Prosecutor's Office, should develop and implement a new standard bail schedule for persons arrested under Section 709-906 which adequately addresses the seriousness of the offense and the likelihood of repeat offenses.

#### Social Services and Treatment

48. A 24-hour face-to-face, comprehensive, community-based resource center providing counseling, education, resource materials, referral and outreach to victims and perpetrators of family violence should be established.

49. The civilian shelters on Oahu should continue to expand their approach from a traditional casework orientation to a stronger advocacy approach that not only provides a

comprehensive array of services for abused women, but includes victim advocacy as a priority intervention.

50. Additional crisis shelter spaces should be established, with more emergency bed spaces to reduce the number of families being turned away.

51. The Department of Social Services and Housing (DSSH) policy of refusing welfare to those women who move into a long-term transitional shelter, because their "rent" is considered paid while they live in the shelter, should be reviewed and ameliorative alternatives proposed.

52. Cash assistance for victims should be made available to cover the initial DSSH gap for non-DSSH qualified and non-shelter residents before benefits begin.

53. Programs that provide services for abused women should also provide child care so that they can attend to necessary appointments.

54. A more specialized, long-term day care program for children of violent homes in the community should be established.

55. The possibility of using volunteers to assist in providing transportation for abused women should be explored.

56. Emergency medical care and health screening and education should be provided for victims of abuse. Contracting with the Public Health Service or local community health programs should be explored.

57. Advocacy should be an essential component of the social services package for abused spouses and male advocates for male batterers should be provided, perhaps through the use of successful graduates of men's programs.

58. Volunteer resources should be developed and tapped for the civilian shelters. A community organizer could be hired to develop an advocacy program and tap other service organizations to provide volunteer time to assist in meeting the needs of abused spouses.

59. A program should be developed to serve perpetrators of spouse abuse in a crisis facility where they can rest and get counseling. This service could be vital in preventing further violence and self-destructive behavior and in facilitating transition into a treatment program.

60. A consortium of public and private agencies and providers should be convened by the University of Hawaii School of Social Work to develop training and supervision guidelines and content for ongoing education and monitoring of domestic violence services.

61. Counseling services available to self-help and facilitated groups and long-term counseling, educational programs, and intensive therapy available to batterers, victims and their children should be increased.

62. Children's services should be expanded. There is a tremendous need for intervention, survival skills and emotional support. Child care for those exposed to violence is not enough--assessments, individual and group counseling, assertiveness skills and safety plans are necessary.

#### Legislative

63. The law allowing the records for conviction for spouse abuse for a first offender to be expunged after one year should be amended to require five years of offense-free behavior.

64. A comprehensive assessment of the projected personnel needs of criminal justice agencies in effectively responding to domestic violence cases should be conducted by the Legislative Auditor's Office. Requests for needed additional staff for Family Court, the Honolulu Police Department, the Prosecutor's Office, and Victim/Witness Kokua Services should be submitted to the Honolulu City Council and the Hawaii State Legislature at the earliest possible opportunity and be given a high priority designation.

65. The portions of Section 571-42 which authorizes the Family Court to "informally adjust" cases involving adult offenders should be repealed.

#### Prevention

66. The Department of Health and the Department of Education should channel resources in primary prevention toward the education of the general public to the principle that women and children are not possessions and must not be hit; that violence is not an appropriate solution to problems.

## DESCRIPTION OF OAHU SPOUSE ABUSE TASK FORCE

In July, 1984, individuals and representatives from various groups on the island of Oahu established the Oahu Spouse Abuse Task Force.<sup>1</sup> The formation of this group was initiated by Child and Family Service, whose Public Affairs Committee had identified spouse abuse as its number one advocacy priority for 1984-85. As a result of its investigations, the Committee recommended that greater efforts be made to provide more effective protection for victims and greater deterrence of spouse abuse.

To reach this goal, the Task Force was formed as a cooperative effort to improve existing services for victims, batterers and family members and to develop a more coordinated, comprehensive system for delivery of those services.

The Task Force met twice a month with volunteer co-chairs leading the meetings. Child and Family Service provided direction for the group, staff and student support, and a meeting place. The group consisted of five subcommittees: crisis response, police, prosecution, courts and social services. As part of the process, the Task Force gathered extensive information about causes and consequences of spouse abuse, existing local and national services, gaps in services, projects, policies, statutes and rates of effectiveness of different interventions. Initial subcommittee findings and recommendations were thoroughly discussed by the group as a whole and final drafts were reviewed in the spring and summer of 1986. (The crisis response findings were incorporated into the four remaining subcommittee reports.)

The results of this work will be presented to government agencies, community groups and various elected and appointed officials for their consideration. It is the fervent hope of the Task Force that this will stimulate a broad spectrum of government and community responses which will address the needs and recommendations identified by the Task Force.

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<sup>1</sup> List of Members, Appendix A

## SCOPE OF THE REPORT

Spouse abuse, as it is defined here, refers to assaultive behavior between adults in an intimate and, usually cohabitating relationship. The behavior may be physical, sexual or psychological (and includes the destruction of personal property). Although the term spouse abuse can refer to either gender, the report focuses on female victims since the overwhelming majority of cases seen by the police and other agencies are women.

The Task Force chose to limit its efforts to spouse abuse rather than the broader problem of family violence (which includes child, sibling and elder abuse) for several reasons. First, although many families experience other types of family violence, the Child and Family Service Public Affairs Committee identified spouse abuse as presenting the greatest problem for the largest number of clients. Secondly, there was no existing public/private task force focusing on this problem. The last Spouse Abuse Task Force had disbanded in the mid-1970's after successfully establishing the Shelter for Abused Spouses and Children and sponsoring legislation for the "spouse abuse law," HRS 709-906. Since that time clients and professionals have expressed growing frustration with the severity of the problems and the lack of a coordinated response to deal with them.

## DIRECTIONS FOR CHANGE

The belief that spouse abuse is an individual, psychological problem experienced by "certain types of people" has been a critical barrier to effective intervention. This perception, which ignores the historical basis for spouse abuse, has been responsible for well-intentioned but less effective solutions that deal only with the results of spouse abuse, not the causes. As recently as 100 years ago, many states still legally sanctioned some forms of wife beating. By the early 1900's, all 48 states (now all 50) prohibited wife beating, but the phenomenon did not disappear with the enactment of these laws. This is largely due to the fact that spouse abuse has its roots in cultural norms and values which have considered men superior to women, and society therefore permitted and even encouraged men to physically "punish" their wives whenever necessary to maintain that order.

This attitude also fostered the use of abusive behavior as an example for succeeding generations. There is widespread agreement and evidence that spouse abuse is a learned behavior. There is strong evidence showing that partners currently in abusive relationships were themselves abused as children and often saw their fathers abuse their mothers. Such children either tend to accept this behavior as an integral part of family life or lack alternative behaviors for creating a non-violent relationship.

Recent studies show spouse abuse is a widespread social problem for which the consequences in medical and public safety costs, lost work and school participation, and physical and emotional injury to adults and children are enormous:

1. Wife abuse is the single greatest cause of injury to women, greater than injuries due to rape, mugging, and automobile accidents combined.
2. One out of every five women treated in hospitals is treated for injuries resulting from wife abuse.
3. Every year between two and six million women are battered by their husbands or lovers.
4. The FBI estimates that a woman is battered by her husband or lover at least once every 18 seconds.
5. 40% of women treated in hospital emergency rooms are victims of wife abuse.

6. 40% of all women murdered are killed by their husbands or lovers resulting in 4,000 deaths each year.

7. 17% of all homicides are a result of battering.

8. 68% of domestic calls answered by a major police department have identified injuries to children.<sup>2</sup>

These statistics emphasize the need to change public perception and action from a view of spouse abuse as a "private matter" to one that views spouse abuse as a serious national concern. The Attorney General's Task Force on Family Violence recommended five interventions for alleviating spouse abuse. These included:

1. Vigorous intervention by police, prosecutors and courts.
2. Arrest of the abuser as a deterrent to further abuse.
3. A campaign to increase public awareness.
4. Not requiring victims to sign complaints.
5. Better data collection.

These recommendations reflect a significant trend in laws, policies and services that the Oahu Spouse Abuse Task Force observed across the country. In the last ten years, well over half of the states have enacted laws which provide greater protection for the victims of spouse abuse.

#### STATES WITH WARRANTLESS ARREST LAWS - 1983

Overall warrantless arrest	33
Arrest permitted with probable cause that misdemeanor was committed	28
Arrest permitted with probable cause that protective order was violated	19
Mandatory arrest	6
Arrest discretionary	31
Abuse need not occur in presence of police	28

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<sup>2</sup> "Battered Wives, Shattered Lives" National Public Television Documentary

As spouse abuse and family violence are increasingly recognized as major social concerns, this awareness is stimulating new research, information collection, and remedial strategies. Counseling strategies are focusing not only on the abused spouse, but also on batterers and children. Children often suffer emotional injury and may feel that they, themselves, are responsible. To correct this, children are helped to change these perceptions, learn safety precautions and non-violent methods of conflict resolution. Other counseling techniques are geared towards raising the woman's self-esteem, which has been lowered through years of abusive treatment. The abuser, after he has learned non-violent coping skills, receives training in communication and other skills. Related factors must also be addressed, such as alcoholism and stress which aggravate spouse abuse.

It is also becoming clear that the problems associated with spouse abuse must be seen "systemically." While much discussion has focused on the police and court action, these components cannot develop effective intervention practices until all the parts of the community service and criminal justice system change. The police play a major role in spouse abuse, since they have first contact with the great majority of cases. However, they have traditionally received little special training in domestic violence. New police training programs which have proved extremely effective have been instituted in a number of police departments throughout the country. Police arrest of batterers has proved to be an effective deterrent to further abuse. However, while it is important that society see spouse abuse as a criminal act of violence, it must be remembered that arrest alone will not solve the problem. Public education, empowerment of women, and prevention programs are also needed to address the root causes.

Sixty years after the last state criminalized wife beating, the first organized and consistent efforts were launched to uncover the crime which had been hidden in the privacy of American homes. Beginning in the late 1960's, grassroots battered women's programs were organized to provide safety for women assaulted by their husbands and to publicly challenge the police, the courts, and community institutions whose policies and practices perpetuated battering. The criminal justice system was criticized for failure to

act independently of the victim against the use of violence and for its inability to protect the victim during the court process. Insistence that women initiate and pursue legal action against abusers ignored the realities of battering and rendered the courts useless to most victims of battering.

Battered women's shelters and advocacy programs organized throughout the 1970's put a new pressure on the police and the court system by calling upon these agencies to enforce the criminal statutes. The criminal justice system was challenged to move from a passive disapproval of wife beating to the active arrest and prosecution of offenders, the use of court sanctions to deter continued assaults and, when possible, the rehabilitation of abusers.

The decision by a community to enforce assault laws and civil protection orders (e.g., temporary restraining orders) in domestic abuse cases has a far-reaching impact on the law enforcement and criminal justice systems of that community. Effective intervention requires two fundamental changes in current police and court practices. First, without imposing sanctions or actions on victims, the system must, whenever possible, shift the onus of imposing sanctions on assailants from the victim to the community. Second, a consistent response to assailants must be secured through coordination and interagency policy development. The actions and messages of the police, prosecutors, sentencing judges, probation officers, and mental health providers should individually and collectively impress upon the assailant the knowledge that this continued use of violence will result in increasingly harsh penalties.

### Shifting the Responsibility of Intervention

In most domestic assault cases, the purpose of battering is to establish and maintain control over the victim. The assailant will, in whatever ways possible, use the control he has established over the victim to protect himself from the legal system. The officer who throws up his hands in frustration when a woman refuses to press charges is witnessing the extent to which she is physically and psychologically controlled by her assailant. The prosecutor who receives the telephone call or letter from the victim asking that charges be dropped must understand that she is acting as her abuser's emissary to the court. She stands between him and the prosecutor, not because it is in her best interest, but because it is in his best interest.

The nature of the relationship between the abuser and his victim is one in which the abuser imposes his will upon the victim. The behavior of the victim becomes a prescribed behavior following guidelines set by the abuser. Like the hostage or prisoner of war, she protects herself by acting for him. Limiting the victims's responsibility in evoking and imposing legal sanctions on the abuser decreases his ability to manipulate the system to avoid the consequences of his violence. Examples of this concept include: increasing the use of police-initiated probable cause arrests, not requiring victims to sign complaints, mandating educational programs for assailants which focus on the use of coercive and violent behaviors rather than marriage counseling, and following up on police calls to provide identified victims with safe housing and legal advocacy.

## Interagency Policy Development

The most important aspect of changing the criminal justice system's response to battering is the need to coordinating the many actors to secure a consistent and uniform response. Policies which promote arrest, increase convictions, place legal sanctions on assailants, increase the use of incarceration of assailants, require treatment for violent behavior, and when necessary, protect victims from further contact with the assailant are effective only when they are uniformly and consistently applied. Uniformity in enforcement is not a problem unique to domestic assault cases but the probability that the violence in these cases will escalate in severity and frequency warrants a rigorous effort towards achieving consistency.

The development of policies must distinguish between taking responsibility for placing controls on the assailant and imposing new prescribed behaviors on the victim. Incarcerating victims for failing to testify against their abusers is an inappropriate attempt to place controls on assailants by providing punitive measures against victims. Public policy directed toward enforcement of assault laws should clearly distinguish between the role of the community and the role of the victim in such an effort. The criminal justice system must not, like the abuser, dictate the victim's behavior.<sup>3</sup>

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<sup>3</sup> "The Domestic Abuse Intervention Project", Minnesota Development, Inc., 1985. (This material, quoted in its entirety, was considered by the Task Force to be a seminal statement which should not be abridged.)

## POLICE

Spouse abuse cases present some of the most difficult situations that police are called upon to resolve. The calls are often highly emotional, disturbing scenes which, although they involve parties who are or have been in a close personal relationship, are immediately or potentially dangerous. There is the risk of duty-related injuries to officers and victims are sometimes unwilling to cooperate with the investigation. Most importantly, most officers have little useful information about the dynamics of domestic violence and instead must operate with social misconceptions about why abuse occurs and the most effective intervention.

Officers try many interventions; primarily, they utilize warnings, separating the parties, and crisis intervention. This last technique was incorporated in the late 1960's and 1970's when social science professionals and police officials sought more "humane" responses to spouse abuse. Unfortunately, there was little understanding that crisis intervention techniques, as a substitute for arrest, are effective only in stopping the immediate violence and are not effective, by themselves, in breaking the escalating cycle of violence.

More currently, however, police departments are considering changes in their existing policies and practices. Because of new information, studies and innovative programs, the Honolulu Police Department is one of those considering and initiating some changes. For instance, a new method of coding domestic violence calls will provide more data about the number and type of cases in Honolulu. Additionally, classes about spouse abuse taught by community resource people have been utilized for some recruit and officer training and, most recently, police have begun to forward cases to the prosecutor for review. These changes are welcome steps toward the fundamental changes in policy and practices needed to protect the spouse abuse victim and to deter future violence.

With this in mind, the following discussion outlines the magnitude of the problem for the police and the community, examines existing policies and practices, and makes recommendations for change.

### Magnitude of the Problem and Existing Policies

The following table lists police reported cases to which officers responded. They reflect not only spouse abuse cases, but all cases classified as "family arguments" in nature. They

also include cases which may be unfounded or "60" series type. These numbers were obtained from the Crime Analysis Section of the Research and Development Division/Crime Code Summary printout.

Although there is no statistical way to discover which cases involved actual violence, many of these situations were potentially dangerous for the participants and for the police.

<u>Month - 1986</u>	<u>Number</u>
June	1,003
May	1,070
April	867
March	944
February	822
January	885

The numbers in the table below reflect the number of "disturbance calls" in which officers were assaulted. "Disturbance calls" are defined as encompassing general arguments, affrays, domestic calls, and other unclassified public calls. These numbers therefore reflect an overestimation of domestic related injuries.

<u>Year</u>	<u>Number<sup>1</sup></u>	<u>Percentage</u>
1982	76/513	14.81
1983	78/462	16.88
1984	59/386	15.28
1985	62/413	15.01
1986	19/157*	12.10

<sup>1</sup>Number of officers assaulted in domestic cases/total number of officers assaulted for all cases.

\*January - May, 1986.

NOTE: The table reflects police reports initiated with an officer as complainant. It does not include all officers who claimed work-related injuries. The nature and extent of injury is unknown.

These numbers are significant because they clarify the danger to the officers in respect to overall numbers. Besides the potential danger, other factors add to the difficulty these cases present:

1. The complexity of family relationships and the similarities these families share with other families,

including police families, can make objective intervention more difficult to achieve and obscure the criminal nature of the offense.

2. The high volume of calls requires an extensive outlay of resources.

3. The significant number of return calls to the same family can raise officer frustration levels and mask an escalating cycle of violence that can lead to future danger.

Traditionally, spouse abuse has been perceived as a social problem requiring police assistance rather than as a major crime problem. Many factors, including public attitudes about privacy of the family, difficulties in prosecution and assumptions about victims' motivations and behaviors, have combined to create this perception. The results of this perception have been reflected in police department policies and procedures. For instance, procedures for police dispatchers, who receive the calls from victims and give information to the officers, do not regularly elicit information that could be used to assess the danger, prioritize the calls accordingly, and prepare the officers for probable dangerous situations. Also, no current system exists for dispatchers or officers to quickly check for prior calls or the existence of a current or expired Temporary Restraining Order (TRO).

Policy also strongly influences how an officer responds to a call. When the police arrive at the scene, the "spouse abuse" statute (709-906) provides the officer with two alternatives if probable cause exists that the person is physically abusing or has abused a family or household member: 1) arrest the offender; or 2) order the offender to leave the property for a "cooling off" period (amended from 3 to 12 hours in 1985). Policy and practice have stressed the use of informal dispute resolution and the "cooling off" period rather than arrest.

Officers are instructed to diffuse the crisis and restore the peace. If the situation still seems volatile, the offender is usually asked to leave the premises for the statutory time. Sometimes the offender leaves the premises only to return as soon as the police have left. If the victim calls the police again, the offender often leaves again before the police arrive. When this happens, the offender eludes any responsibility for his behavior and the victim remains unprotected. Arrest for spouse abuse occurs only in severe cases. If the victim seems unwilling or unlikely to testify, this has further reduced the likelihood of arrest. Without arrest, many victims feel forced to initiate a civil proceeding for a protective

order or to file a criminal complaint. While both actions are helpful, they can increase the chances that the offender will see the victim as responsible for the outside intervention. For many reasons, it is far more appropriate and effective for the offender to see the "State" as the complainant.

Policy decisions are also reflected in reporting procedures. Officers have broad latitude in determining what calls to report and how extensively to report the details of the incident.

In October, 1985, the first results of a new coding procedure, which instructs officers to indicate when there are victims in domestic violence situations, were made available. Out of 435 reports with victims meeting the criteria, 269 were listed as "other" category, a ubiquitous term that could encompass a range of offenses including felonies. Because of the large number of cases registered under this category, much needed information is still unavailable.

All 911 calls to the police dispatch are recorded by tape. Calls are documented by dispatchers and sent to radio operators to assign officers to respond. When the officers determine that there is no evidence to show reasonable grounds of spouse abuse or any other criminal activity, they leave the scene and are not required to submit a police report. The only documentation for these unfounded cases are kept by police dispatch in the form of a card with information regarding that particular call.

In 1986, the State Legislature amended 709-906 to provide for the issuance by police of a written warning citation to persons ordered by police to leave the premises for a "cooling off" period. This procedure, which has been implemented by the Honolulu Police Department, should improve the safety of the victims and improve documentation of incidents.

Police training which increases knowledge of the dynamics and appropriate interventions for spouse abuse has been identified as a critical need nationally and is a much needed component here. As a result of recent changes, the recruit training program now includes approximately ten hours of instruction about spouse abuse dynamics, resources and the relevant statutes. The portion taught by community providers is designed to increase awareness and sensitivity. Probably because arrest has not been designated as the preferred response, the instruction does not include methods of investigation and collection of evidence specific to these cases.

## RECOMMENDATIONS

1. The efforts of the Police Department should be based on a primary concern for the protection of the victim and on the deterrence of future violence.

2. The Police Department should adopt a policy preferring arrest in domestic violence cases.

### Rationale

The United States Department of Justice in May, 1984 endorsed a study of a Minnesota Project released by the National Institute of Justice which showed that "victims of household assaults are about twice as likely to be assaulted again if police do not arrest the attacker." "Arrest appears to deter violence even when courts take no action."

The Minnesota Project, although not considered conclusive, has since been the impetus for major changes in policy in several police departments. Other factors, including successful lawsuits against police for failure to protect victims and successful programs such as the one in Duluth, Minnesota (which achieve a 43% reduction in recidivism), have added to a national trend toward treating domestic violence as a crime.

The following excerpt from the Newark, New Jersey Police Department Training Program states the problem quite clearly: "Police practices which emphasize separation or reconciliation of the parties and avoidance of arrest have proven to be inappropriate for violent calls. They may also have inadvertently contributed to repeat incidents of assaults against victims and officers alike by failing to provide the victim with adequate protection or to hold the assailant accountable for his actions."

The potential for greater protection for victims of domestic violence by implementing this recommendation presents a unique opportunity and mandate for change.

3. Every recruit, officer and supervisor should receive increased training in family violence. Training should include information about social and psychological causes and stress protection of the victim, enforcement of laws, and the use of community resources.

4. Every dispatcher and dispatch supervisor should receive an increased number of initial training hours which

provides classification of calls based on seriousness of assault or threats eliciting information about presence of assailant, weapons and injuries.

#### Rationale

Traditional perceptions of domestic violence and the role of the police are deeply rooted in law enforcement policy and procedure. Programs in other locales have shown that extensive training and retraining are required to ensure compliance to new policies in this area. In addition, adequate training and detailed directives will produce the greatest protection for officers from injury and mortality. Dispatchers require specific training in order to assure victims and elicit information to prioritize calls.

5. The Police Department should develop report forms and systems that identify all cases of domestic violence and enable assessment of the number of cases and their subsequent disposition for statistical purposes.

6. Implementation of the proposed CADS should be pursued as a priority within the near future.

#### Rationale

The combination of the use of the Z code for victims of domestic violence and the proposed CADS system will greatly increase the department's ability to monitor the total number of cases. Further reporting, however, will be necessary to ascertain other important variables.

## PROSECUTION

### Introduction

Although much of the early emphasis in the development of effective interventions into spouse/partner abuse focused on crisis response agencies and techniques (shelters, improved police response, emergency restraining orders) increasing attention is now being given to the criminal prosecution of abusers. Improvements in many areas are, of course, still needed in obtaining effective emergency assistance for women who have been battered by a husband or lover. However, many advocates of an improved public response to spousal violence have turned toward the use of prosecution to more effectively stem the chronic violence of men who batter their wives and lovers.

For some this new focus represents an attempt to make batterers formally accept the responsibility and consequences for their actions. For others the issue is simply the need to deal with the frustrations generated by seeing the same men come through the system repeatedly for abusing their partner(s). And while the motivations for developing an improved prosecutorial system for handling spouse abuse may vary, the perspective among both treatment providers and criminal justice personnel is that this is an important task in the struggle to stop the cycle of family violence.

In Hawaii, the responses to spouse/partner abuse that have evolved within the past decade reflect much the same pattern as that which has been occurring throughout the country. The establishment of shelters for battered women in the 1970's was followed in the 1980's by the development of specialized injunctive relief (Domestic Abuse Protective Orders) through the Family Court. While many strides have been made in these areas in recent years, the approach is characterized primarily by the view that family violence is essentially a private matter between the parties and that the government need only to make available the mechanism to which persons in need of protection may turn. Although this approach represents a vast improvement over previously prevailing attitudes which saw no public responsibility for violence which took place within the privacy of the home, it still relies upon the willingness and ability of the victim(s) to step forward and seek assistance. Once the State accepts the responsibility of pursuing criminal prosecution then the unwillingness or inability of the victim to act ceases to be the controlling factor. This particular approach is based on the premise that the deterrence of spouse/partner abuse is a critical issue of

such great importance that it demands unilateral state action. It appears that the time has come when increased understanding of the far-reaching impact of family violence on our community is seen as justifying an enhanced public response.

The view that criminal prosecution of spouse abuse is an important method of providing "...protection to a spouse from being physically abused by the other spouse" was put forth in the commentary attached to Hawaii's Spouse Abuse Law (formerly Chapter 709-906 of the Hawaii Revised Statutes) which was enacted in 1973 (Appendix B). While it is clear from reading the entire commentary that the Legislature intended that "...family unity should be retained without the necessity of the abusing spouse being branded a 'criminal'," they also wanted to establish an independent State responsibility for stopping spouse abuse.

Despite the fact that Act 189, Session Laws 1973, The Spouse Abuse Law (Appendix B) facilitated criminal justice intervention in spouse abuse situations it is clear that all of the agencies involved in enforcing that law actually considered criminal prosecution as only the last resort.

The evolution of the trend toward greater public intervention into family violence accelerated greatly after 1980. This eventually resulted in a much greater emphasis on the State's responsibility for both protecting victims and stopping abusers. Enactment of a law providing for Ex-Parte Temporary Restraining Orders for victims of domestic abuse in 1979 was an extremely important catalyst in getting this process moving as it: 1) provided reasonably accessible legal protection for battered women, 2) permitted petitioners to request TRO's without legal counsel, 3) succeeded in identifying large numbers of domestic abuse situations which were previously hidden from "public" view, and 4) exposed many judges and other criminal justice personnel to the vast dimensions of the problem for the first time. At about the same time the Victim/Witness Kokua Services in the Prosecutor's Office established readily available advocacy services for victims of family violence. This helped to assure that the issue of family violence was given continued emphasis in the courts, the legislature, and, importantly, in the Prosecutor's Office itself.

#### Measuring the Problem

In surveying the issue of criminal prosecution of spouse abuse it is difficult to obtain purely objective facts (including statistics) due to the "benign neglect" exercised in this area for many years. However, the Task Force was able

to tap various sources of information including the records of the Prosecuting Attorney's Office (Family Court Division and Victim/Witness Kokua Services); interviews with Prosecutor Charles Marsland and four Deputy Prosecutors; a review of the Legislative history of the criminal statutes relating to spouse abuse (currently entitled Abuse of Family and Household Members); an interview with John Hamano, Director of the Oahu Intake Service Center; and an extensive review of Prosecution of Spouse Abuse: Innovations in Criminal Justice Response by Lisa Lerman (Center for Women Policy Studies, 1981, 1983).

Development of a statistical profile of spouse abuse prosecutions was difficult to assemble as neither the Prosecutor's Office nor the Family Court are currently maintaining separately reported numbers in this category. However, we were able to hand tabulate some numbers on spouse abuse and restraining order violations prosecuted during fiscal year 1984-85, a total of 120 cases (Appendix C). While this information is somewhat helpful in outlining the current caseload and dispositions it does little to suggest the true parameters of the potential number of prosecutions. For comparative purposes we can use the number of domestic violence victims served by Victim/Witness Kokua Services in 1984--approximately 2,600. However, this is useful only for rough comparisons and possible future projections not previously covered under the spouse abuse statutes. We were unable to obtain any meaningful statistics on either District Court or Circuit Court cases involving domestic violence, since there was no readily available means of identifying such cases.

### Why Prosecute

In examining the prosecution of spouse abuse the subcommittee decided to first address what we considered to be the most basic issue--"Why prosecute?". We felt that it was essential to establish clearly a rationale and purpose for prosecution before beginning a more detailed analysis of the inner workings and problems presented by the process itself. After lengthy discussion and review a list of seven reasons for prosecuting spouse abuse emerged:

1. It is necessary to give abusers a clear message that violent behavior toward a spouse/partner is not acceptable.
2. Prosecution may assist in providing additional legal protection for the victim.

3. A consistent prosecutorial response in spouse abuse cases is likely to encourage a more effective police response.

4. Lack of prosecution tends to perpetuate abuse by implying tacit community approval.

5. Abusers will not normally enter treatment voluntarily. Court ordered counseling as part of a criminal sentence can force persons into treatment who would not go on their own.

6. In the prosecution of a criminal cases, the State assumes the role of making the abuser accept responsibility for his actions, thus relieving the victim of this burden.

7. The clear threat of jail as the result of criminal prosecution provides greater leverage over an abuser than other alternatives such as restraining orders.

#### Spouse Abuse and the Law

While a significant number of cases involving criminal behavior toward a spouse or partner involve actions serious enough to warrant felony charges against the abusers, the vast majority of reported situations fall into the misdemeanor category. In addition, criminal laws in the State of Hawaii which cover more serious types of offenses (felonies) are not currently adapted to specifically address the relationship between the victim and the offender. The fact that many different criminal charges may be brought against a person who has committed acts of domestic violence also makes it somewhat difficult to isolate the cases of spouse/partner abuse for our consideration. However, as previously noted, many types of family violence situations are now covered under the current provision of Section 709-906 (Hawaii Revised Statutes), Abuse of Family and Household Members (Appendix D).

The current version of the Statute cited above (revised during both the 1985 and 1986 Legislative Sessions) has several important and, in some cases, unique provisions. As noted, Section 709-906 currently applies to most persons who are related by marriage, blood (as parent and child or vice versa), or who are, or were, cohabitants. While the recently signed (May, 1986) Act 285 (Appendix E) amending Section 709-906 contains several mandatory provisions, 709-906 is not a mandatory

arrest statute as some states have now adopted. Police officers are given the option to warn suspects to leave the premises for 12 hours but are required to arrest a person who refuses to leave or who returns before 12 hours has elapsed. A new feature incorporated by the 1986 amendment is the issuance of a written warning citation to all persons who have been ordered to leave for 12 hours. Finally, Section 709-906 does mandate that all those who are convicted under the statute must be given at least a 48 hour jail sentence and required to participate in a domestic violence treatment and counseling program. This mandate, however, is not uniformly applied.

### Review of Current Prosecutorial Statistics and Procedures

As noted in the introduction to this section, there is little readily available statistical information concerning the prosecution of spouse/partner abusers. However, we were able to prepare a compilation of cases in the Family Court of the First Circuit involving adults charged with spouse abuse, violation of restraining orders, or similar offenses during the 1984-85 fiscal year (7/1/84-6/30/85) (Appendix C). In addition, numerous interviews with a number of Deputy Prosecuting Attorneys allowed us to develop a fairly clear perspective of the prosecution of spouse/partner abuse from the prosecutor's point of view.

The traditional views of criminal prosecution of spouse abuse evolved from several widely held beliefs that seem to have cut broadly across the lines of states or judicial districts. The underlying belief has been that family violence falls outside the jurisdiction of the criminal courts and instead belongs in the hands of "divorce" courts and/or social workers. Those cases which have made their way into the criminal justice system seem to have done so almost by accident rather than by policy or design. Many states and jurisdictions have, in fact, had policies similar to those here in Honolulu which constitute veritable conspiracies to prevent the prosecution of violent acts against family members.

While much of the unwillingness to prosecute spouse abuse has evolved out of a philosophical perspective which sincerely believed that criminalization was inappropriate, there are also a variety of procedural problems (some real and some perceived) which have inhibited the use of criminal action to deal with spouse abuse. The reluctance of victims to testify and the tendency of battered women to "withdraw" their complaints have commonly been cited by prosecutor's and police as a major obstacle to prosecuting spouse abusers. Most of the prosecutors we interviewed agreed that this was a serious problem but indicated that there are ways to effectively deal with this

problem. The Honolulu Prosecutor's "no-drop" policy is designed to specifically deal with this problem. The theory behind such a policy is that if the State, represented by the prosecutor, assumes the responsibility for pressing the case against the defendant, then the victim is relieved of that burden. Once relieved of this burden, the victim is not as vulnerable to the various pressures to "drop" the case from the abuser, his family, or others who might try to convince her to withdraw.

Iwalani White, the Deputy Prosecutor who authored the Honolulu Prosecutor's Manual on handling adult cases in Family Court (Appendix F) states that virtually all of the victims in spouse abuse cases that she has handled have eventually appeared in Court under subpoena. Many protested and were not happy to be there, she said, but most eventually testified honestly about the abuse in Court. In those cases where the victim refused to testify, she indicated that she is sometimes able to use the victim's prior statements as police testimony to establish sufficient evidence for a conviction. Similarly, Darwin Ching, District Court Supervisor, noted that the Hawaii Rules of Evidence specifically provide for a hearsay exception when a witness has previously provided a signed written statement.

Another key barrier to prosecution is the commonly held belief that spouse abuse cases are so difficult to win that attempts to aggressively pursue them are futile and therefore counter-productive to the desired result--stopping the abuse. Statistics that were collected in the process of our investigation, however, would seem to contradict this point of view (Appendix C).

While it is clear that the total number of prosecutions (120) for 1984-85 are hard to reconcile with the total number (2,600) of family violence victims assisted by Victim/Witness Kokua Services for 1984 (calendar year), the percentage of successful cases (convictions) is surprisingly high (approximately 80%). While the prosecutors whom we interviewed acknowledged that spouse abuse cases were tough to try, they cited several factors in the relatively good conviction rate.

One such factor was the Spouse Abuse Statute itself (now Abuse of Family and Household Members). The fact that the prosecution needs only to prove that the victim had been "abused" and not "bodily injury" as in the prosecution of assault cases was frequently mentioned as an important advantage. Similarly, several prosecutors noted that prosecutions of abusers under Section 709-906(4)(c) make it easier to overcome the problem of reluctant victims since the primary element of such an offense is the violation of the police officer's

order to leave for 12 hours. Since the investigating officer is normally available, cooperative, and a trained witness they can more easily provide the key testimony necessary to obtain a conviction. It should also be noted that a high percentage (about 60%) of spouse abuse convictions were the result of guilty pleas.

Finally, there is the issue of the "no-drop" policy which apparently plays an important role in the large number of guilty pleas. We were somewhat concerned about the possible negative impact that a "no-drop" policy might have on a woman already beset by the numerous problems that are an integral part of a battering relationship. Vicky Jackson, writing in the May/June, 1984 issue of Response to Violence in the Family states that in several notable cases women who have refused to testify against their male assailants have been jailed for Contempt of Court. While we could not find any cases in Hawaii that had such disastrous results for an uncooperative victim, it is an area of legitimate concern. When interviewing Honolulu prosecutors about this problem they indicated that most Family Court judges would be willing to issue a bench warrant, if requested by the prosecutor (to force the victim to appear in Court). Deputy Prosecutor White also commented that although she and other deputy prosecutors routinely use the threat of possible contempt proceedings to compel a battered woman to testify in Court, she was only aware of one case in which a bench warrant was actually issued by the Court. She also noted that most of the women that she contacted prior to trial seemed relieved when they were advised that they would not be permitted to drop the charges. Most of the victims, she added, subsequently appeared in Court and testified freely against their abusive husband or partner. In general, prosecutors voiced the belief that while the "no-drop" policy provided the most effective means of prosecuting domestic violence, its success depended upon the ability to simultaneously provide protection and support for the victims (an issue that we will address further under the section on Victim Assistance). This approach is consistent with the comments of Lisa Lerman, author of Prosecution of Spouse Abuse (CWPS, 1981, 1983): "No-drop policies should be designed to support rather than coerce battered women. Victims of family violence should not be punished more than they already have been. Prosecutors and police must be trained to combine strong law enforcement policies with sensitivity to the needs of battered women."

Some of the other obstacles seen by both prosecutors and advocates for battered women are the result of structural or institutional problems within the Family Court system itself. The prosecutors as a whole seemed to feel that the Family Court was still too concerned with "preserving families" and not enough with protecting the victims.

Several concerns that were prominently mentioned by prosecutors related to methods of handling spouse abuse cases by the Family Court. Topping off the list of procedural complaints was the tendency to certain judges to dismiss cases sua sponte (on their own initiative) if there is an indication that the victim wishes to drop her complaint or for other arbitrary reasons. For example, in one case a Family Court judge dismissed a case involving a restraining order violation against a defendant due to the fact that more serious charges were also pending against him in Circuit Court. While this practice may be limited to one particular judge, its existence seems counter-productive to any concept of equitable and effective justice.

Additional areas cited by prosecutors were Family Court requirements for the filing of petitions in all cases. This procedure, which is not required in District Courts, appears to cause unnecessary delays in bringing defendants before the court. It also was suggested that this requirement may serve as somewhat of a deterrent to police decisions to make arrests in these cases since it would result in added paper work. Similarly, the current bail schedule, which is set so low (\$25 for first offenders) that it is rarely a deterrent to further acts of abuse, results in most abusers being released soon after arrest and not being brought before the judge until a week or two later. And, although the Statute (709-906 HRS) specifically states that "The respondent shall be taken into custody and brought before the Family Court at the first possible opportunity" before a decision as to whether or not to release the defendant on bail is made; this seldom, if ever happens. Prosecutor Charles Marsland recommended that the Family Court act to revise the bail schedule upward and to enact procedures that would allow detention of arrestees long enough so that some type of evaluation of defendants could be done prior to their release. This may require an intake or equivalent agency. He also suggested that a standard set of bail conditions for family violence cases could be drawn up to help provide assurances that the defendant did not further abuse or intimidate the victim at the risk of having his bail revoked.

Lisa Lerman indicates in Prosecution of Spouse Abuse, nine states have enacted statutes which "...specifically authorize the imposition of conditions on the pretrial release of defendants in family violence cases..." In Hawaii, however, this would appear to be unnecessary as Section 804-7.1 (HRS) already provides for conditions being attached to bail such as prohibiting the defendant from "...approaching certain persons..." and "...from going to certain described geographical areas or premises."

While much of our review of the prosecutorial process has assumed the traditional routes of police arrest or victim complaint, the question of why such a small number of cases are actually filed demands closer scrutiny. While we admittedly do not have accurate data on the number of potential arrest situations it is clearly far in excess of the current caseload. If we assume that the arrest and prosecution of abusers is in fact an effective means of intervention in spouse/partner abuse situations then we must (from the prosecution view point) examine why it is happening so infrequently now and explore how we can increase it's occurrence in the future.

What a prosecutor normally looks for in assessing the possibility of obtaining a conviction is the state of the physical evidence (i.e., pictures of injuries, weapons, etc.) and the availability of testimony of an eyewitness to the crime. While most prosecutors indicated that the vast majority of spouse abuse arrest cases had adequate evidence, the cases involving victim complaints frequently suffer from lack of evidence. At first, it might seem logical that the victim (and not the police officer) is initiating the case simply because the officer was not able to obtain enough evidence to make an arrest. However, after reviewing many of these police reports it seems fair to say that there is usually insufficient evidence simply because the officer(s) at the scene did not look for it. This does not necessarily mean that the officer did nothing, because many abused women report that the police "counseled" the abuser or calmed him down. Frequently, assistance is also given in getting to a shelter or other safe location. Most officers also seem to now be aware of the availability of protective orders and regularly refer women to Family Court to obtain assistance. However, it appears that many officers, including many good intentioned ones, fail to adequately perform what is the most basic role of the police, criminal investigation. The very same officer who may perform flawlessly as a "social worker" when responding to a spouse abuse case may neglect to obtain very basic pieces of evidence such as a written statement from the victim, or other possible witnesses (children, neighbors, etc.). There also appears to be a tendency not to pursue suspected spouse abusers who have left the scene since the woman may seem to be safer if he is no longer there. However, attempting to obtain a suspect's statement can be quite crucial to a successful prosecution since he may confess or otherwise incriminate himself.

While it may be easy to simply blame the Police Department Policy (or the lack of it) for this problem, it clearly goes much deeper than that. During the course of the Task Force's examination of various aspects of police response to

spouse abuse, it became clear that many of their actions are predicated on what they believe are the expectations of the Prosecutor's Office, the Family Court or the community. And indeed, the past policies and actions by the Prosecutor and Court (as indicated in Appendix G) rest clearly on the premise that prosecution is to be considered only if all other alternatives have failed.

Prosecutor Marsland, when asked how the Prosecutor's Office might encourage the police to present more cases for prosecution, responded in two ways. First he cited the need to effectively deal with the perception that the Prosecutor's Office is not willing to take spouse abuse cases to trial. He seemed concerned that the police feel that the Prosecutor's Office under his administration would not want to aggressively prosecute spouse abuse the same as any other crime but did acknowledge that no special efforts had been made to communicate the Prosecutor's policy on the issue. He did suggest, however, that despite the inaccuracy of police perceptions, the effect was still the same--few arrests and continuing inadequate investigations. While he firmly believes that the administration of the Police Department has the ultimate responsibility for police procedure and policy, he would be happy to send a personal memorandum to every officer in the Department informing them of the Prosecutor's policy on spouse abuse cases.

Although Prosecutor Marsland put the major emphasis on encouraging improved police investigations, his second suggestion involves unilateral action by the Prosecutor's Office. He proposed that spouse abuse cases could be routinely reviewed by Victim/Witness Kokua Services and then forwarded to a deputy prosecutor for review in cases where there was sufficient evidence to proceed. He cited the existing procedures in child abuse cases when asked whether it would be feasible to prosecute cases which were not initiated by the victim, saying that the serious and chronic nature of spouse abuse (and child abuse) sometimes require establishing innovative approaches. He emphasized the public responsibility of the Prosecuting Attorney to deal effectively with crimes which have broad social impact.

A joint cooperative effort between the Police Department and the Prosecutor's Office similar to that described by Mr. Marsland above has recently been initiated. Although it is clearly too early to predict its effects, this new procedure promises to greatly increase the identification of domestic violence situations in need of criminal and social service intervention.

### Victim/Witness Assistance

Deputy Prosecutor Armina Ching explained, in some detail, the practical problems of prosecuting spouse abuse cases. She indicated that the victim's role as a witness is crucial and that most problems with handling these cases arise in this area. She indicated that the assistance of victim advocates on the case greatly enhance the likelihood of successful prosecution. She suggested that every spouse abuse case have a victim advocate assigned and that such intervention take place as early as possible.

An explanation of the role of victim advocates from Victim/ Witness Kokua Services in spouse abuse cases may be appropriate at this point. Limitations in the level of staffing for Victim/Witness Kokua Services caused that agency to initiate a reevaluation of its services recently. Among the first changes was the placement of primary emphasis on assistance in cases involving criminal prosecution. While this unfortunately involved a transfer of personnel from assisting petitioners in Domestic Abuse Protective Order cases, it also means that outreach services to victims in spouse abuse cases can now be provided. It is expected that this will result in more effective prosecution in several ways. On one level it would probably increase the likelihood of successful prosecution, i.e., increased convictions. Similarly, the ability of the victim advocate to assist in providing the court with victim impact information at bail hearings and/or sentencing will undoubtedly result in decisions which are more appropriate for both victim and defendant. Intervention by victim advocates should also promote a more supportive atmosphere for the victim. Early involvement by the advocates can also facilitate prompt and appropriate referrals of the victims to other needed services.

### Training

Another area highlighted by Deputy Prosecutor Ching was the need for better training for deputy prosecutors. She commented several times during the subcommittee meetings that materials that she had been provided in preparation for subcommittee work gave her some new insights that she felt would greatly benefit other deputy prosecutors. She felt that despite generally aggressive policies toward the prosecution of spouse abuse cases in the Prosecutor's Office that a lack of knowledge of the dynamics of abusive relationships hinders the effective carrying out of these policies. She said that prosecutors (and police) are easily discouraged from pursuing

these cases when they so frequently encounter women who are reluctant or outright refuse to cooperate with prosecution. This, she said, is primarily due to a lack of understanding of why this happens.

Although Victim/Witness Kokua Services has sporadically provided some training on family violence for deputy prosecutors there are currently no provisions for the routine education of deputies. This is partly due to the fact that there are no "recruit classes" such as the Honolulu Police Department has, thus limiting training opportunities to either individual or group in-service training programs. An even more difficult obstacle, particularly for group presentations, is the very heavy caseloads carried by deputy prosecutors, which makes the scheduling of group meetings extremely difficult. However, one possible solution might involve individual training for newly appointed deputies, reinforced by periodic short refresher trainings to be scheduled at the weekly meetings of District and Family Court Prosecutors. This could be supplemented by periodic updates disseminating research information (legal or otherwise) or informative articles pertinent to the subject of family violence.

### Policy

Questions of policy regarding the prosecution of spouse abuse cases seem relatively clear. Unless there is insufficient evidence no case is dropped once it has been charged. Although some plea agreements are allowed they require the approval of the supervising Deputy Prosecuting Attorney. This particular deputy carefully reviews all such requests and seldom is anyone permitted to plead guilty to a charge that carries a lesser penalty than the initial charge. In most cases an abused woman who is requesting that charges be dropped against her husband or boyfriend is told that this is not permitted, and that she will be required to appear in court for the trial via court subpoena. Deputy Prosecutors also have indicated that they sometimes inform reluctant witnesses (the abused women) that a warrant for their arrest could be issued if they fail to appear in court.

A general overview of the Prosecuting Attorney's policy on spouse abuse prosecution seems to indicate that a relatively hard line is taken on the pursuit of charges that have already been filed, but that there is greater flexibility in the approach to sentencing. Before the law was changed to require at least 48 hours in jail for all convicted abusers, Deputy Prosecutor White indicated that jail time was usually requested for repeat offenders but that suspended sentences with special conditions such as counseling, a fine, and community service

were all possible sentences. Support by prosecutors for the mandatory jail provisions of the recently enacted Abuse of Family and Household Members Statute seems to be quite strong. The general feeling is that the mandatory sentencing provisions in the law prevent Family Court judges from giving too lenient sentences for spousal assaults.

## RECOMMENDATIONS

### Policy

1. The current "no-drop" policy for family violence cases should be continued.
2. A policy statement regarding family violence cases should be developed by the Prosecutor's Office. The statement should cover both philosophy and procedures and should clearly communicate to both the public and other criminal justice agencies the important role that prosecution plays in formulating an effective community response to family violence. Emphasis should also be given to the need to support victims as well as holding the abusers criminally responsible for their behavior.
3. Efforts should be made to coordinate the policy and procedures of the Prosecutor's Office with those of the Police Department in regard to the handling of family violence cases.
4. A public relations campaign designed to raise public awareness about family violence and the prosecutor's important part in dealing with it should be undertaken. Ideally this should be coordinated with the Police Department.

### Training

5. A training program in family violence should be developed and implemented for all agency prosecutors. The program should address the need for training both new prosecutors and those currently working in the Prosecutor's Office. The training program should be structured so as to provide both an understanding of the dynamics of family violence and technical legal skills necessary to appropriately handle such cases.
6. The development and delivery of training should incorporate the use of both local resource persons and professional organizations of national scope such as the National College of District Attorneys.

7. Both individual training packets and periodic in-service group sessions should be utilized to assure continuous up-dating and reinforcement of training.

8. Training for police and judges should include information about the prosecutor's polices and procedures.

#### Procedures - Police

9. The quality of evidence collection for all criminal investigations involving family violence situations should be targeted for improvement. Special attention should be paid to the collection of physical evidence (weapons, photographs, etc.) and obtaining written statements from all witnesses.

10. The Police Department should reassess existing policies regarding arrests in family violence cases, and consider developing procedures necessary to facilitate the transition to a preferred policy of arrest.

11. Police officers should be instructed to provide victims with a clear understanding of what to expect under current procedures involving Abuse of Family and Household Members (Section 709-906) cases. In particular they should be advised about the "no-drop" policy in arrest cases and automatic review by the Prosecutor's Office for all other cases.

#### Procedures - Prosecutor's Office

12. Careful consideration should be given to the development of a special unit to handle the prosecution of cases involving family violence. This should include the possibility of recruitment (both within the office and in the community at large) of attorneys with a specific desire/commitment to handle these types of cases.

13. Cases involving family violence should be prosecuted vertically (one prosecutor throughout the case) whenever possible to assure the greatest amount of continuity.

14. The current policy of reviewing all Section 709-906 cases referred by the Police Department should be continued and periodically reassessed for its impact.

### Procedures - Family Court

15. Family Court should develop new procedures for the handling of arrest cases involving persons who are charged with Abuse of Family and Household Members. Those procedures should be more closely consistent with the requirements in Section 709-906 which require that the defendant to be brought before the court prior to the setting of bail and conditions of release.

16. The requirement of petitions in adult criminal cases should be dropped and procedures similar to those in District Court providing for oral charging by a deputy prosecutor in open court be adopted.

17. The Judiciary should make development of an adult probation component for Family Court a high priority. This unit would assure proper supervision and proof of compliance follow-up for all adults convicted in family violence cases and be responsible for the preparation of comprehensive presentence reports.

18. A working agreement should be worked out between Family Court and the Intake Service Center to provide for the timely processing of bail evaluations and recommendations for all adult offenders charged with crimes under Family Court jurisdiction.

19. The Senior Family Court Judge after consultation with the Police Department and Prosecutor's office should develop and implement a new standard bail schedule for persons arrested under Section 709-906 which adequately addresses the seriousness of the offense and the likelihood of repeat offenses.

20. The Family Court should develop and implement a standard set of bail conditions to be used in all family violence cases. These conditions should give special emphasis to providing adequate protection to the victim and other family members who might be in danger. A copy of the bail conditions should be provided in writing to the victim and/or other witnesses. The Family Court should adopt a policy of strict enforcement of bail release conditions using the Intake Service Center to monitor all persons on pre-trial release.

### Procedures - Victim/Witness Kokua Services

21. The current procedure of providing outreach services to all victims in Abuse of Family and Household Member cases should be continued and periodically reevaluated for impact.

22. Outreach to the victims in all cases involving an arrest for Abuse of Family and Household Members should be reinstated. Support services (information, crisis counseling, court accompaniment, etc.) for victims are essential to effectively using criminal justice remedies to address the community wide problem of family violence.

23. Victim impact statements should be prepared in all Abuse of Family and Household Member cases for consideration of judges prior to sentencing.

24. Victim/Witness Kokua Services should continue to serve as liaison between the Prosecutor's Office and social service agencies providing services to battered women.

25. Periodic training should be provided to all Victim/Witness Kokua Services staff on the dynamics of family violence, the needs of battered women, and the effective methods of providing support services for battered women.

26. Victim/Witness Kokua Services should take the lead in developing an effective and meaningful method identifying, tracking and tabulating information on family violence cases handled by the Prosecutor's Office.

27. Victim/Witness Kokua Services should further explore the potential for early intervention in family violence situations through development of a crisis response unit located at the Honolulu Police Department.

#### Staffing

28. A comprehensive needs assessment focusing on the projected needed of criminal justice agencies in effectively responding to family violence cases should be initiated immediately. Requests for the needed additional staff for Family Court, the Honolulu Police Department, the Prosecutor's Office and Victim/Witness Kokua Services should be submitted to the Honolulu City Council and the Hawaii State Legislature at the earliest possible opportunity and be given a high priority designation.

#### Statutory Changes

29. A bill requiring repeal of the portions of Section 571-42 which authorizes the Family Court to "informally adjust" cases involving adult offenders should be submitted.

## COURTS

Judges play a crucial role in spouse abuse. They have the ability to send a clear message to the perpetrator, the victim, and the community that violence toward an intimate is a serious crime against society, that it is an absolutely unacceptable way of resolving conflict, and that it will be dealt with severely.

On the other hand, judicial handling of spouse abuse matters can have the effect of reinforcing the belief of most batterers that they have the right to beat their partners, that a marriage license is a "hitting license," as one writer has characterized it.

Until recently, the judicial response to spouse abuse reflected the traditional thinking that such matters are private and personal and should be dealt with within the family setting rather than in a legal forum. The courts, like the other components of the criminal justice system, viewed and treated violent acts between spouses differently from violence between strangers. In Hawaii's First Circuit (Oahu), of 103 spouse abuse cases between 1973 and 1979, only three resulted in conviction.

The passive disapproval that typically characterized the attitude of judges to spouse abuse in the past is changing throughout the United States and in Hawaii. Judges increasingly recognize the critical role they play in reducing the incidence of spouse abuse. Compare the three spouse abuse convictions in 1973-79 with the one year period ending June 30, 1985 when there were 45 convictions in the First Circuit for criminal spouse abuse, plus 41 criminal contempt convictions for violation of spouse abuse protective orders.

Criminal cases make up a small portion of spouse abuse proceedings in Family Court. Far more common is the civil (non-criminal) procedure whereby a victim of abuse may obtain a protective order restraining the abuser from contacting, threatening or physically abusing the victim or other household members. There has been a steady and dramatic increase in the number of victims seeking protective orders in recent years. In 1985, 1,555 victims sought protective orders against abusers, six times as many as in 1980.

As public awareness of the alternatives to living in an abusive household increases, as public acceptance of judicial intervention increases, and as the effectiveness of judicial intervention increases, more and more victims will turn to the

courts for help. Family Court is struggling mightily at the present time to meet the need, but greater financial and other resources are urgently needed now and can only be expected to rise.

#### Prosecution Under the Criminal Statute (HRS 709-906)

As pointed out above, spouse abuse incidents in Hawaii become court cases through two types of proceedings, one criminal, the other civil. While there are some similarities between the two types of proceedings, the many significant differences require separate analysis and are so treated here.

Section 709-906 of Hawaii Revised Statutes provides that it is a criminal offense for a person to physically abuse a family or household member. When a police officer has reasonable grounds to believe that a person is physically abusing or has physically abused a family or household member, the officer may arrest that person. Or, if he believes that there is probable danger of further physical abuse, he may order the person to leave the premises for a cooling off period of up to 12 hours. If a person so ordered by the officer refuses to leave or returns before the end of the period, the statute provides that the person shall be arrested. Prosecution under the criminal statute can also be initiated by the abused person filing a criminal complaint with the county prosecutor.

Following arrest, the accused is taken to the police station where bail is set, at a figure between \$25 and \$100 for the first offense and for second and subsequent offenses at \$50 to \$1,000. The Honolulu Police Department does not have the ability to attach conditions to release on bail, such as requiring the accused to stay away from the victim. The more serious the injury to the victim and the greater the likelihood for further abuse, the greater the probability that a responding police officer will arrest the abuser rather than sending the abuser away to cool off. It is anomalous, even dangerous, that an arrested abuser who has the relatively small amount of money for bail can very quickly make further contact with the victim without having violated any laws or order, unlike the abuser who has been ordered to go away and cool off. Because of the potential for additional abuse, this Task Force proposes that there always be an opportunity to impose conditions on pre-trial release under this statute.

If the accused is unable to post bail, he is brought before the court within 48 hours. If the charges are not dismissed by the court, the accused is usually arraigned and trial date is set if he pleads not guilty. The court may impose conditions on pre-trial release, however, there is no

personnel to supervise compliance. If he indicates a desire to plead guilty, the judge will usually instruct him to obtain counsel before accepting the guilty plea and entering sentence.

Conviction under this statute is a misdemeanor and a jail term of up to one year may be imposed. In the past, jail terms were not usually meted out for first offenders absent aggravating circumstances. However, as of May 29, 1985, there is a mandatory 48-hour jail term for all persons convicted under this statute. The majority of Family Court judges have indicated general support for this mandatory sentencing. While this Task Force recognizes the value of the clear message that mandatory sentencing sends to the abuser and the community that spouse abuse is a serious offense and will be treated accordingly, there were members who felt that this is outweighed by the value of having a sentencing judge make the decision concerning the appropriateness and efficacy of incarceration on a case-by-case basis for first-time offenders. Finally, however, the Task Force supports leaving the current statute unchanged on this issue.

For conviction under this statute, the court may require the abuser to undergo "any available domestic violence treatment and counseling program." Family Court sentencing judges vary in their use of this sanction. When a treatment program has been ordered, the sentencing judge requires the abuser to return to court and submit proof of compliance at a review hearing.

While it appears that recently the judges who hear these cases have been diligent and thorough in following up on compliance orders, available records indicate that this has not always been the case. It would appear that a more efficient use of judiciary human resources would be to have treatment orders monitored in these cases, as well as in protective order cases, by Adult Services Branch or comparable entity, with judicial review only in cases in non-compliance or special circumstances.

If a person convicted under this statute has no similar offenses within one year, he can get all records related to action expunged. The Task Force proposes this expungement provision be amended to require that the offense-free period be five years rather than one year.

It should be noted that the violence between household members can be prosecuted under other criminal statutes, e.g., assault, harassment, attempted murder. Such cases are not handled in Family Court.

### Protective Orders (HRS 586)

Any person may petition Family Court, in a civil proceeding, for an order restraining a family or household member from contacting, threatening or physically abusing the petitioner's family. The petition must allege that physical injury or the threat of imminent physical injury has occurred. There is no ability to get a protective order if a person inflicts property damage or emotional or psychological injury. This Task Force recommends that Hawaii Law be amended so that protective orders can be issued when the petitioner shows that a household member has caused substantial emotional distress to the petitioner through willful and knowing conduct that seriously alarms, annoys or harasses the petitioner and which would cause a reasonable person to suffer serious emotional distress. The Task Force also recommends that a protective order be available for malicious damage or the threat of malicious damage to the property of the victim.

The current application form for a protective order is so structured and worded in legalese that it is confusing and intimidating to many victims. It needs to be simplified and revised so that a victim is able to complete the request without much assistance. These forms for obtaining a restraining order should be available at all police stations.

At the present time it usually takes a victim five to seven days to get a restraining order. The United States Attorney General's Task Force on Family Violence, 1984 in the section "Recommendation for Judges" states, "Protective orders should be available on an emergency basis, 24 hours a day." To provide effective protection, courts must be readily accessible to family violence victims and protective orders swiftly issued. There is the possibility of grave danger to the victim who must wait a week or more for a protective order. In almost all cases, victims apply for a restraining order because violence has occurred and the victim needs to be protected immediately from physical harm. At present judges are available on a 24-hour basis for emergency orders for cases involving child abuse and to commit someone for psychiatric observation if the person is considered a danger to himself or others. The emergency need for temporary and immediate protection is comparable in cases involving spouse abuse. Therefore, the Task Force recommends that the restraining order processing time be reduced from the current five to seven days to less than 24 hours and that a judge be available at all times to issue appropriate orders in emergency situations. This may necessitate the assignment of more judges to Family Court so that a rotation schedule can be initiated to handle cases on off hours.

Until July, 1985, victims appearing in court for protective order hearings were assisted by staff and volunteers of the Victim/Witness Kokua Services of the Prosecutor's Office. Since July, 1985, the Adult Services Branch of Family Court has taken over the role of assisting the victims and the accused in the protective order procedure. Unlike Victim/Witness Kokua Services, Family Court cannot function as an advocate for the victim in court. The need for assistance and support geared to the needs of a victim of family violence is great, and its value in reducing further violence is considerable. The Task Force recommends that Victim/Witness Kokua Services again provide this service, or that the services be provided by a capable private victim advocacy agency. Since January, 1986, Adult Services Branch has been monitoring compliance with all protective orders issued by the court.

At the first court hearing after a request for a restraining order is made, only the petitioner is present. Virtually all petitions are granted and a 30-day restraining order entered. A hearing is set for two weeks hence, at which time the alleged abuser is ordered to come before the court to show cause why the restraining order should not continue for a period of up to six months. It is common that the petitioner victim fails to attend this show cause hearing. Usually when this occurs the respondent abuser also does not appear, and it may reasonably be surmised that the parties have effected a reconciliation or have otherwise reached some agreement between themselves that a protective order will not be pursued further. Given the cyclical nature of spousal violence and society's stake in the outcome, this attempt by the parties to terminate the legal proceedings should be unacceptable to the court. However, Family Court judges vary in their response when neither victim nor abuser appears at the show cause hearing. Some dismiss the case, some issue a bench warrant for the arrest of both parties, and others send the petitioner a notice to appear at a future date and issue a bench warrant for arrest of the abuser. The Task Force submits that arrest of the petitioner victim is not proper under these circumstances and recommends that Family Court adopt the policy of sending a notice to the parties ordering them to appear at a subsequent date set for the hearing, with a clear warning that an arrest warrant will be issued for failure to appear.

If the court determines at the show cause hearing that it is proper to continue the restraining order, the court's order may include anything "the court deems necessary to prevent domestic abuse or a recurrence of abuse" including child visitation orders and orders to either or both parties to participate in counseling or treatment services. Judges generally make valuable use of their broad powers here and tailor their orders to the needs of the parties and available community treatment resources. However, they usually have

little information on which to assess what the needs of the parties are as they relate to minimizing future family violence. This is in stark contrast to the practice and procedure in child abuse cases, where a rather involved family treatment plan is developed and reviewed by all affected parties before being submitted to the court for approval at a hearing held solely to consider the treatment plan.

The Task Force recommends that a similar treatment plan practice be available to the court in appropriate cases. This would naturally necessitate giving responsibility and the necessary resources for developing the treatment plan to an appropriate agency. Since the Adult Services Branch is involved in assisting both parties already and is monitoring compliance with treatment orders, it appears that they would be the appropriate agency for developing those treatment orders, with the assistance of the parties. But Adult Services Branch has many responsibilities already, and a better alternative may well be the creation of a Family Court Probation Office with responsibility for, among other things, development of and compliance with treatment orders and preparation of pre-sentence reports in criminal actions.

Under the current law, the court's protective orders restraining the abuser and ordering treatment can last up to six months, which is not always sufficient in length to ensure completion of ordered treatment and to maximize chances of ending the violence. However, most judges in Family Court indicate that an extension of Court jurisdiction past six months would be of little benefit in the current system because of limited resources and the lack of monitoring capability to cover an extended time period. At the same time there are many cases where the start of treatment is delayed or for other reasons treatment orders are not fully implemented within six months.

It is the recommendation of the Task Force that HRS 586 be amended to provide that jurisdiction be extended for up to one year. The Task Force recommends that Family Court be provided with the necessary resources to take full advantage of this additional authority.

#### Treatment Programs

Simply put, programs to provide appropriate treatment services for abusers and their victims on Oahu are adequate in quality but greatly inadequate in number. Efforts to change battering behavior are most effective when they are close in time to abusive incidents. Unfortunately, inadequate funding

of programs for batterers has resulted in lengthy waiting lists for available programs and judges faced with the dilemma of no available programs for lengthy periods.

The Task Force strongly urges that public and private funding of treatment programs for abusers and victims be greatly expanded.

### Record Keeping

Family Court keeps statistics on the number of protective order cases processed, the number of petitions granted and the number denied.

Each case has an individual file that is kept by the court staff. The court staff maintains volume of work statistics that includes: how many cases are processed, how many are denied, and how many orders are granted. The Adult Services Branch keeps statistics on the number of telephone inquiries regarding obtaining protective orders, the number of applications for protective orders and the number of abuse hearings held. These records are very helpful in documenting the tremendous increase in the number of requests for spouse abuse protective orders.

The Family Court also maintains individual files on each protective order case and each criminal spouse abuse case (HRS 709-906). These cases are filed together by case number. To date no demographic or descriptive research has been conducted on these cases. The Family Court is now attempting to provide descriptive background data from these files.

Much of the problem in attempting to gather information on the efficacy of the various sentencing options involves a lack of research in this area. There is a large gap in this area of record keeping and analysis of spouse abuse cases, both in Hawaii and elsewhere. Follow-up studies of the different types of sentences imposed and their long-term effectiveness in curbing abusive behavior is vital information in attempting to learn more about which judicial response is most effective in ameliorating spouse abuse.

There is also a need for the Family Court to automate its record keeping to provide more timely retrieval of the data collected.

## Judges

In Family Court, judges hearing spouse abuse cases have usually been per diem judges, i.e., part-time temporary judges rather than full-time permanent judges.

The use of per diem judges in domestic violence cases is viewed by the judges and the Task Force as a major problem in the system. Per diem judges are less experienced than permanent judges and frequently lack substantial training in family law and the dynamics of family violence before hearing spouse abuse cases. In addition, their part-time status usually means that their time and concentration is divided between private law practice and judgeship duties. Because of these factors, there is inconsistency in rulings from per diem judges. This strains the court system and weakens the ability of Family Court to effect change in the prevention and treatment of spouse abuse. It must be noted, however, that there are per diem judges in Family Court who regularly hear spouse abuse cases and have taken a special dedicated interest in family violence dynamics and making improvements in this area of Family Court.

Because of increased public, professional and police awareness of spouse abuse and changes in perspective on intervention in these cases, there has been a steady increase in spouse abuse cases being heard in Family Court. This has occurred for the most part without a concomitant increase in the number of judges and support staff assigned to handle the spouse abuse calendar.

It is the recommendation of the Task Force that the State of Hawaii increase the number of full-time judges and support personnel in Family Court in order to meet the needs of the spouse abuse calendar.

The Task Force further recommends that greater priority be placed on training Family Court judges in the dynamics of spouse abuse and available treatment resources, while acknowledging that great improvement has been seen recently in this area. Spouse abuse has only recently come to be viewed as a problem, in terms of general awareness of the public, social service agencies and the judicial system. Many unsubstantiated stereotypes and misconceptions exist about abuser and victim alike. There is no reason to assume that newly appointed Family Court judges are any more aware, or freer, of prejudicial attitudes than others in our society, and that they are well equipped to hear spouse abuse matters absent good training.

## Spouse Abuse and Mediation

The use of alternatives to traditional litigation is increasingly seen by court administrators as an effective method of reducing burgeoning caseloads and the resulting backlog and trial delay. The Hawaii Judiciary has been on the cutting edge of developing alternatives to litigation. In 1984, it began a program called Alternative Dispute Resolution to research, test and institutionalize various such alternatives, including mediation, arbitration and the use of special masters.

At the present time, Family Court makes extensive use of the mediation services of the Neighborhood Justice Center, a private nonprofit agency whose volunteer mediators have provided services to a variety of disputants since 1979. Virtually all contested child custody and visitation matters arising from divorce cases are referred by Family Court for mediation as are many contested property division matters. Almost all of these mediations are presently being done by the Neighborhood Justice Center, but there are an increasing number of private mediators becoming trained and offering services.

The Neighborhood Justice Center provides the following definition of mediation:

Mediation is an approach to conflict resolution in which an impartial third party intervenes in a dispute with the consent of the parties to assist them in reaching a mutually satisfactory settlement to the issues in dispute. A mediator has no power to impose a decision. Instead, mediators help people communicate, negotiate, solve problems and arrive at agreements. Like judges and arbitrators, mediators strive to remain impartial and neutral. They exist to help people arrive at a meaningful resolution to the issues that divide them.

In other states, domestic violence cases have been referred for resolution through mediation. This is absolutely improper. The shared responsibility of disputants in the mediation setting to resolve the problem is utterly inappropriate where spouse abuse is the issue. It is essential that the abuser be confronted with the fact that his violent acts are illegal, unacceptable to society and will result in serious consequences for him. Mediation does not facilitate the necessary change in his behavior.

In Hawaii, Family Court does not refer spouse abuse cases for mediation. Nor does Neighborhood Justice Center mediate the issue of violence between family members.

A more controversial subject is the mediation of contested aspects of divorce proceedings (e.g., visitation, custody, property division) where there has been spousal violence. The primary issue is the existence of the necessary balance of power to achieve a fair and equitable agreement where one party has been a victim of violence or threats of violence in the relationship.

Family Court is moving in the direction of mandatory mediation in contested divorce cases, with the State Legislature also looking at statutory changes to accomplish this. Many issues have surfaced, including the appropriateness of mediation where spouse abuse have occurred. Other identified important questions are the necessary training, qualification and evaluation of mediators. A great deal of study of these issues is now or soon will be taking place. The Alternative Dispute Resolution program of the Judiciary is drafting standards for mediators practicing in Hawaii. Plans of the Neighborhood Justice Center include the development of intake screening for spouse abuse in all domestic cases, enhanced mediator training on family violence, including available community resources for intervention and treatment, and the development of guidelines for mediating when spouse abuse surfaces during mediation. The 1986 Legislature passed a resolution requesting Family Court to conduct a comprehensive study and evaluation of mediation in divorce cases and pointed to the problem areas identified here. The Family Law Section of the Hawaii Bar Association is also conducting a study of the use of mediation in divorce cases.

The Task Force applauds the current efforts by various groups to carefully analyze the appropriateness of mediation where there has been family violence. The Task Force urges both the input of knowledgeable local spouse abuse experts in arriving at decisions and a "go slow" approach to the use of mediation until the studies can provide for intelligent decision-making.

## RECOMMENDATIONS

### Sentencing

1. Sentencing for spouse abusers should include both criminal sanctions (jail, fines, community service) and mandatory treatment programs. Appropriate sentencing requires that judges have access to prior arrest and pre-sentence reports. This may require more court personnel.

2. Compliance with court orders regarding treatment programs should be closely monitored, with sanctions for non-compliance.

#### Criminal Prosecution of Spouse Abuse

3. In the pre-trial release of persons charged with spouse abuse, there should always be the ability to attach conditions to the release on bail--conditions geared to protecting the safety of potential victims.

4. The law allowing the records for conviction for spouse abuse for a first offender to be expunged after one year should be amended to require five years of offense-free behavior.

#### Protective Orders

5. Protective orders should also be available in cases where there has been extreme psychological abuse or malicious property damage.

6. The time it takes for a person to get a protective order should be reduced to less than 24 hours from its present five to seven days.

7. Emergency protective orders should be available 24 hours a day, 7 days a week.

8. Protective orders should be effective for a period of up to one year rather than the present 180 days.

9. If a victim of spouse abuse fails to appear at a protective order hearing, the court should send the victim a notice ordering the victim to appear in court at a future date, rather than issuing a bench warrant to arrest the victim for failure to appear at the hearing or dismissing the case.

10. A procedure similar to the "service plan" used in child abuse cases should be available for developing treatment plans in appropriate spouse abuse cases.

#### Treatment Programs

11. Treatment resources for both abusers and victims of abuse should be greatly expanded.

#### Record Keeping

12. Ongoing research and studies to measure the effectiveness of the various sanctions and treatment alternatives should be available to sentencing judges.

13. Data collection in Family Court should be improved and automated.

Judges

14. More permanent Family Court judges should be appointed to meet the growing demands of spouse abuse cases.

15. Training of judges in the dynamics of spouse abuse and the availability and efficacy of treatment resources should be improved and expanded.

Mediation

16. The use of mediation related to violent acts between spouses or intimate partners is inappropriate.

17. An analysis of the appropriateness of mediating contested divorce issues where family violence has occurred is presently needed by Family Court, lawyers and mediation service providers and should include consideration of the dynamics and effective treatment of spousal violence.

## SOCIAL SERVICES

After reaching the literature and existing programs on spouse abuse across the country, there seems to be general agreement on the need for a particular format of treatment and services that is closely coordinated with law enforcement and judicial systems.

There are several principles that are basic to the effective, ethical provision of services:

1. The offender is responsible for his violent behavior.
2. Violent behavior is learned within a social context which unfortunately treats spouse abuse as a less serious "family" problem than other forms of non-domestic violence; this behavior is reinforced by any experiences which blame the victim and withhold consequences for the offender.
3. Protection of the victim and an end to the violent behavior must be the primary objectives. (Consideration of "family unity," for instance, is secondary to safety.)
4. Providers need to be specifically trained in the causes, consequences and treatment of spouse abuse.
5. Because spouse abuse is grossly under-reported and denied by both victim and offenders, service providers must be aggressive in every phase of their actions.
6. Because of the crisis nature present, at some time, in all spouse abuse cases, existing and future services should be evaluated to ensure that emergency needs are considered.
7. All battering behavior must be eliminated before any conjoint treatment or counseling is provided.
8. Group psycho/educational offender treatment programs are generally considered the most effective methods (rather than individual or psychosocial only models).
9. Most offenders must be court ordered and closely monitored in order to keep them in treatment. Consequences for nonparticipation must be quick and consistent.

10. Meeting the concrete needs of victims is primary: these include protection, shelter, secure housing, legal protection, financial resources, child care, and transportation.

11. Most victims receive the greatest benefit from psycho/educational support groups. Based on experience and measured by these principles, caseworkers, other human service workers and victims have often found social services assistance to be inadequate, ineffective, and inappropriate. This is not to say that service providers have had less than good intentions and in many cases sufficient skills to help. It is, more accurately a reflection of the lack of general recognition of these principles, spouse abuse training and a plan to implement and fund the necessary services.

A brief look at current services will provide specific examples of where major problems exist.

One very useful framework for categorizing services lists three major areas for focus:

1. Protecting victims of abuse at the time of crisis by making shelter, 24-hour hotline, emergency food, clothing, cash, medical and child care, and transportation available.

2. Supporting victims by ensuring that they are provided freedom of choice in seeking shelter or remaining at home. Supportive services may include: legal advocacy; court accompaniment; counseling for the victim, abuser and children; help with finding housing; arranging for second stage housing; employment referral or training; victim support groups; follow-up services; life skills training; therapy; and education and recreation programs for children.

3. Preventing domestic violence through community education efforts aimed at reducing or eliminating its occurrence. Special emphasis will be made to educate those groups already working with domestic violence victims--police, judges, hospitals, social service agencies, schools, etc.--as well as to reach the community at large in order to increase sensitivity to and awareness of the causes and impact of family violence.

## EXISTING RESIDENTIAL SERVICES ON OAHU

Until mid-1985, Oahu with a population of over 800,000 people had only one civilian crisis shelter which allowed families (unless space was available) to stay only five working days. Based on a clearly established need, the 1985 Legislature approved funds for two more shelters.

### Child and Family Service

The civilian shelters on Oahu are funded by DSSH and operated by Child and Family Service (CFS). There are currently three shelters operating on Oahu: the Crisis Shelter that permits battered women to stay for a maximum of two weeks; the Extended Shelter that receives women from the Crisis Shelter for a maximum of one month; and the Transitional Shelter that permits women to stay for a maximum of six months. The CFS "system" of shelters is designed to be progressive and is structured to allow women to move slowly from a supportive environment through to a more independent residence.

The Crisis Shelter has five bedrooms, and depending on the number of children in each family 15 people may be sheltered; the Extended Shelter has 8 beds; and the Transitional Shelter has 4 bedrooms. There are 11 full-time staff distributed between the three Shelters with most of them scheduled at the Crisis Shelter. There are individual counseling sessions and weekly group counseling sessions for women in each Shelter. Child care is provided for the women during their group sessions, but there is very little care available for the women during the day. There is limited transportation for the residents, augmented by a taxi service for business appointments, but no regular transportation is currently available. The Shelters offer parenting groups for residents and support groups for non-residents. Now that Victim/Witness Kokua Services no longer assists with TROs, the Shelter staff see the need to act as advocates and help their residents to obtain TROs. The many counseling services of CFS are seen as adjunct supports to the women after they leave the Shelter as well as during their stay.

The Crisis Shelter has advertised its services through the media, with posters in buses and in community presentations. Recently, although there has not been an ongoing, aggressive outreach effort to hard-to-reach, minority and rural populations, the Crisis Shelter has had to turn away families. In comparison, Minneapolis with a population of approximately 800,000 has seven shelters.

## The Institute for Human Services

This emergency shelter primarily serves adults, many of whom have social and emotional problems which are not compatible with abused spouses and children. This shelter has been used, however, when no other housing was available.

### Military Programs

The Military Family Abuse Shelter (MFAS) provides a temporary, safe place for individuals who are experiencing violence within their own homes. Funded directly by the Department of Defense, this 24-hour emergency refuge is available to all active duty and retired personnel and their family members. Abused individuals can bring their children and abused children are accepted as long as they are accompanied by the non-abusing parent.

The MFAS has accommodations for 30 individuals and staffing includes five full-time and nine part-time/contract/on-call workers. Clients are permitted to remain in the MFAS up to five days and there is no cost involved. All food, clothing, and other basic necessities are provided. Other services include: transportation for pickups and appointments, 24-hour crisis line, information and referral, individual and group counseling, child development screening, parenting class, and a children's program. Advocacy and developing treatment plans are a priority in case management which also involves active participation of commands and service agencies of each military installation.

The MFAS is a component of the Services Assisting Family Environments (SAFE) Program. SAFE is a cooperative and coordinated effort by all branches of the military service and the State of Hawaii in providing a broad spectrum of services to military families for the prevention, treatment and remediation of family violence problems. The SAFE Program is under the oversight of the CINCPAC Surgeon.

The other components are the SAFE team described in further detail later in this report and the Wellness In The Home (WITH) Program. WITH is designed to prevent child abuse and neglect in military families through prenatal identification of high risk mothers and early intervention. Based at Tripler Army Medical Center, initial identification of high risk parents is accomplished through a self-report questionnaire, administered to prenatal women. High risk scores may warrant intervention by a WITH Home Visitor. Seven trained paraprofessionals utilizing an aggressive outreach model in providing services, can maintain caseloads of 15 families. They provide support and work to reduce identified stresses and risk factors.

The SAFE Program coordinates its efforts with the Family Advocacy Programs. These refer to programs intended to identify, remediate, and prevent child abuse, neglect, and spouse abuse. Mandated by the Department of Defense, it is designed to maintain, preserve, and protect the military family unit. It is provided by all branches of service and has resulted in the following:

1. Provision of a multi-disciplinary committee comprised of military and civilian social services, medical, legal and criminal investigative representatives to review all reports of spouse and child abuse/neglect, develop a treatment plan for delivery of services, and provide ongoing follow-up.
2. Spouse and child abuse treatment programs to include individual, couple, and group counseling.
3. Provision of community education to service members, units, commands, and families about family violence and services available.
4. Provision of programs or activities that contribute to a healthy family life such as classes in parenting, family living and enrichment, child growth, development, etc.

Family wellness is also an imperative goal of the Armed Services YMCA. As a nonprofit organization, it provides a multitude of preventative services to military families such as assertiveness training, mediation, community education, a crisis hotline, financial counseling, respite care, etc. These programs and services are available through its five outreach programs and various military contracts.

#### CRISIS EMERGENCY SERVICES

##### 24-Hour Hotlines

Child and Family Service provides a 24-hour hotline service specifically for domestic violence. This telephone line can be used to assist people find resources; it also provides information and support.

The Volunteer, Information and Referral Services (VIRS) crisis line is a general purpose hotline which is not intended to be or perceived by the public as a domestic violence hotline. Volunteers have received domestic violence orientation to enable them to refer calls to other services

but they do not take the place of specifically trained staff whose primary purpose is to provide counseling and advocacy to domestic violence victims.

The Crisis Response Services Program (CRSP) teams are specifically designed to reduce unnecessary hospitalization and institutionalization for mental illness. They are not intended or prepared to handle spouse abuse problems.

#### Emergency Food, Clothing and Cash Assistance

Food and clothing are available to women living in the abuse shelters. Non-residents can obtain these items on a limited basis from VIRS, community centers, some churches and possibly from DSSH, however, they would have to know where to call and usually would need to provide their own pickup. (See DSSH section.)

Cash assistance is available from VIRS, DSSH and the CFS Shelters. However, none of the existing services are very immediate. DSSH requires complex applications and a waiting period. VIRS only has very limited funds and at certain times of the year has no available cash. The CFS Shelters are only able to help those persons who have entered their facilities.

#### Emergency Child Care

There is no formal emergency child care available when a crisis occurs, at night or on weekends. Wesley Drop In Center provides a "drop in" child care program, but there is a two week preregistration prior to taking the child. The Family Stress Center and Child and Family Service provide respite nurseries. These programs are designed as child abuse prevention programs and do not provide crisis services.

#### MEDICAL SERVICES

The subcommittee did not research existing medical services to the extent that definitive statements could be made about what currently exists in the community. However, through a combination of experience in assisting clients to use services, clients' comments and comments by medical personnel the following information was gathered.

Victims use a combination of emergency and nonemergency services provided through hospitals, clinics and individual providers. There is no specific facility or program set up to provide services to spouse abuse victims. There also is, to our knowledge, no facility or group of providers that currently trains its medical staff to diagnose and treat this problem.

Queen's Hospital has provided some training to its social services staff and is planning training and new procedures to begin next year. This will include statistical reporting of all suspected and confirmed cases.

The Child and Family Service Shelters will provide transportation for medical appointments. One doctor from a local clinic has agreed to make occasional calls to the CFS Shelters, but there is no provision for on-site medical assessment or treatment.

## COUNSELING

### The Family Violence Program

The Family Violence Program of the Waikiki Community Center is a community-based program designed to provide counseling and support groups for victims and abusers in domestic violence. Komo Mai, the men's component, offers an orientation phase, an anger management phase and a maintenance phase of treatment to men in groups.

The program is modeled after successful family violence intervention programs in Minnesota, Alaska and Washington. It is a small program that has grown in response to the need in the community; in the first quarter of 1985, 116 men were seen by Komo Mai staff. Maluhia O'Wahine, the women's component, also uses group services as a primary intervention. In addition, it offers assistance in legal aid, job training, Family Court, prosecution, welfare and housing issues. Both components offer individual counseling, individual assessment, referrals, crisis intervention, advocacy, court reporting, psychoeducational groups, child care while women are in group, community education, technical consultation, and training.

The Family Violence Program is funded through the Department of the Judiciary and the Department of Health, Mental Health Division. Most of the clients are ordered to treatment by Family Court, while the others are referred by private practitioners, mental health clinics, Child and Family Service, Sex Abuse Treatment Center, Prosecutor's Office, public health nurses, Teen Pregnancy Program, and Salvation Army to name a few. Both programs have begun to use formerly battered women and recovering batterers as trained group facilitators.

### Victim/Witness Kokua Services

Crisis counseling for victims is available from 8:00 a.m. to 4:30 p.m., Monday through Friday with clients who have an active criminal case. Information regarding the legal system and particular information about the victim's case is provided.

Victims are helped to understand the criminal justice system, are referred to additional social services and are assisted in applying for criminal injuries compensation.

### The Department of Health

In 1985, the Office of Person Abuse was created in the Division of Mental Health to assist services and planning efforts in spouse abuse. For the 1987-89 biennium the following services are provided:

All Centers provide treatment for court mandated batterers although there is not a good system for communication or compliance and the staff are not specifically trained in spouse abuse. Also all Centers do some general prevention work that would provide some assistance in the area of spouse abuse, i.e., community based workshops and classes on parenting, marital communication, building self-esteem, stress and anger management, and decision-making skills.

Diamond Head Mental Health Center has a contract with Waikiki Community Center to provide \$25,000 of services for early intervention and treatment of abused women and \$10,000 for treatment services for men. They also have a program called Alternatives for Women that provides individual, group counseling and skill building groups. Two other Centers are currently making plans to have small spouse abuse contracts.

Oahu-wide services will be provided by teaching a family violence prevention curriculum to high risk groups. Approximately \$50,000 per year is going to be spent on the teaching of this curriculum. The main focus on the State-wide efforts will be in prevention services.

### Child and Family Service

Child and Family Service has started groups for batterers and victims and will begin more groups as funding becomes available. The clients are primarily mandated by Family Court and attend groups for 20 weeks. Individual counseling is also available. After all danger of battering is resolved, couples and family therapy are available. Free child care, which is focused on children's issues in violent families, is provided during the women's groups. The program combines court advocacy and information and referral with close monitoring of cases with Family Court. Since the spring of 1986, all domestic violence components residential, treatment, education, advocacy

and support have been coordinated into a Domestic Violence Program to increase cohesiveness and comprehensiveness. There are nonresidential groups for women (with child care), with more groups for women and children being planned.

#### Institute for Family Enrichment

The Institute for Family Enrichment (TIFFE) provides training programs in prevention of family violence on a statewide basis. Training is provided to the Honolulu Police Department, public health nurses, preschool teachers, foster home personnel, home caregivers and community based service providers. TIFFE works on DSSH contracts as well as with private contractors. They are currently conducting a research project based on pre and post test evaluations of attitude change. TIFFE also provides counseling to women in transition who live in the Diamond Head catchment areas. Both individual and group counseling is available.

#### The Services Assisting Family Environment Teams

Services Assisting Family Environment (SAFE) provides services to military families for problems with family violence, where either spouse abuse or child abuse or both are identified problems. It is quite common to find both in the same family. SAFE uses an interdisciplinary team approach which includes a social worker, a public health nurse, and an outreach worker. The team provides aggressive outreach and a wide range of counseling services, including counseling for both victims and perpetrators, individual, couple and group counseling. They also provide groups on self-esteem, assertiveness training, anger management and parenting. There is also a child evaluation component. Each of six teams provides services for up to 40 families (although 35 is preferred as a more reasonable maximum caseload). The abuser must conform with the treatment requirements and treatment is supported by the abuser's commanding officer. The aggressive outreach/home visit component is highly effective, and the 24-hour staff contact availability seems to contribute to the low reabuse rate. A comprehensive training program for all workers is based on the work of Sonkin and Ganley, which uses a multi-focus model, including comprehensive assessment, cognitive restructuring and reparenting.

The SAFE Program has already identified numerous problems with the children in spouse abuse cases. Seventy percent of SAFE's victims of spouse abuse and fifty percent of the perpetrators have identified themselves as victims of sex abuse as children.

## The Neighborhood Justice Center

Mediation services, including divorce mediation and child custody disputes are offered by trained volunteers at the Neighborhood Justice Center. A specialized policy for screening out abusive cases has been developed.

## SOCIAL SERVICES

### Income Maintenance Section (DSSH)

Spouse abuse victims and their children may qualify for Aid to Families with Dependent Children (AFDC) or General Assistance (GA) financial assistance from DSSH, Public Welfare Division if they meet general eligibility criteria for assistance. In addition, eligibility for financial assistance may be determined within two working days if the spouse abuse victim meets the criteria for emergency financial assistance. Food stamps or medical assistance only are also provided to eligible families.

Income maintenance workers are trained in determining eligibility for financial assistance and are not specifically trained in the area of family violence. However, they do make referrals for services to the DSSH, Public Welfare Division Social Services Section and other providers in the community as they become aware of the problem.

### Social Services Section (DSSH)

The Social Services Section of DSSH does not currently identify spouse abuse as a specific target group in the Department's Comprehensive Biennium Social Services Program Plan (CBSSPP). Child abuse/neglect is a top priority and services provided by department social workers and through Purchase of Service (POS) contracts are geared to the child abuse/neglect victim and their families, which may include services to the abused spouse in the child victim's family.

DSSH, Public Welfare Division Social Services has been purchasing spouse abuse shelter services, which is seen to be a needed service, for the past seven years. Funding is currently through federal Social Services Block grants, although these grants are not specifically earmarked for spouse abuse shelters. In addition, the 1985 Legislature appropriated \$170,000 to establish two new shelters on Oahu, one for extended shelter and the other for long-term transitional shelter. For fiscal year 1986-87, the Social Services Section contracted for spouse abuse shelters in the following amounts: Kauai, \$67,000; Maui, \$60,000; Hawaii, \$60,187; and Oahu, \$230,284.

The subcommittee observed the need for Child Protective Services workers to identify spouse abuse in the families where they see child abuse. Children of violent families are themselves vulnerable to imminent harm and perhaps our Child Protective Act could be amended so that battered women could become eligible for comprehensive services after DSSH, Child Protective Services identification.

#### GAPS IN EXISTING SERVICES ON OAHU

##### Housing

Obtaining affordable housing in Oahu is extremely difficult for anyone. Even with advocacy, this problem will remain one of the most critical obstacles for victims of spouse abuse. However, a trained advocate can increase effectiveness by knowing resources, procedures and fair housing laws. The lack of housing is such a widespread chronic problem that class advocacy strategies (preference in Section 8 housing and greater protection so victims can stay home) will be necessary.

Maluhia O'Wahine and Child and Family Service staff provide as much advocacy as possible with limited staff; however, these functions are extremely time consuming requiring staff or volunteers that have large blocks of time available.

##### Counseling

Services appropriate to family violence perpetrators and victims are extremely limited.

As previously stated in the "principles" for intervention, certain types of counseling, coordinated with law enforcement, have gained widespread acceptance by experts in family violence. Primarily these interventions have been implemented as freestanding programs, separate agencies or separate programs within agencies. Quite often these programs were established by formerly abused women, feminists and professionals who had experienced the inadequacy and inappropriateness of many existing services. Therapists whose training had not included domestic violence were not treating cases in an effective way.

For instance, the intake procedure in most mental health and private settings is structured to "start where the client is" allowing the client to determine the nature and extent of their disclosure. Although this philosophy of "client determination" is a critical value that needs to be protected, in

situations that involve potential or actual abuse, more directive, confrontive interventions are appropriate and, in the case of child abuse, already accepted.

Joint intakes, in which the victim and abusive party are interviewed together, often fail to uncover the presence of violence. Even separate intakes, if they do not contain specific questions about violence, are frequently ineffective because of the victims' denial or simple ignorance about what defines abusive behavior.

Another problem is the lack of awareness about appropriate treatment modalities. In relationships which contain no violence or threats of violence, individual, couple and family therapy are highly useful, commonly employed interventions. For relationships where there have been threats or actual violence, couple or family therapy are not effective in ending the violence.

Until the threat of violence is gone, women will not be able to participate openly in therapy without fear and men will not take full responsibility for ending their battering behavior. Focus on the relationship implies that the violence is caused by problems between the individuals, or problems of the victim, rather than focusing on the battering behavior of the offender.

Individual counseling for the victim can be helpful but group experiences with other women are vital in empowering and reeducating women. Involvement with other women breaks down isolation, shame, self-blame and demonstrates alternative coping skills and positive attitudes. Individual counseling with batterers with few exceptions can be helpful as an adjunct only to psychoeducational group models where the men are reeducated, supported and confronted openly about their battering behavior.

## RECOMMENDATIONS

It is clear that a system of services that comprehensively focuses on a continuum of services from preventive to follow-up is essential. The problem of spouse abuse flows through many organizations including social service agencies, police, prosecutors and the courts. Appropriate laws, screening, referral, treatment and correctional programs are needed.

### Crisis Needs

1. A 24-hour face-to-face community based resource center should be established to provide counseling, education, advocacy, referral and outreach to victims and perpetrators of

family violence. Such a comprehensive service would solve many of the problems that have been identified in the crisis stage of spouse abuse. This is the first priority of recommendations for crisis services.

### Sheltering

2. The civilian shelters on Oahu should continue to expand from the more traditional casework orientation, to an advocacy organization that not only provides a comprehensive array of services for abused women, but also advocates for systemic change. This would include activities that range from counseling, group facilitation, legal advocacy, planning for second stage housing and long-term victim assistance.

3. The number of crisis shelter bed spaces available should be expanded. Recent changes have provided more crisis bed spaces but there are still some families being turned away. There is no current estimate of the number of emergency beds needed, however, this gap could be monitored and estimates supplied after an average client population has been established for the new intake patterns.

4. The DSSH policy, which does not allow women to reside in a long-term transitional shelter and receive full welfare benefits, should be reviewed for changes which could allow greater economic stability and increased independence.

### Emergency Food, Clothing and Cash Assistance

5. Cash assistance should be available to cover the initial gap, for non-DSSH qualified and non-shelter residents. Provisions of emergency food and clothing should be easily available at a resource center (see Recommendation 1); the shelters or other centrally located sites.

### Child Care

6. DSSH should provide "slots" with existing day care programs in the community for respite day care for abused women.

7. Longer term, more specialized day care for children of violent homes in the community should be established.

### Transportation

8. The Child and Family Service Shelter should explore further use of existing volunteer programs for transportation of shelter clients.

### Medical Care

9. The Child and Family Service Shelter should consider contracting with local medical providers for priority emergency care to insure that victims are treated quickly and appropriately. In addition, the subcommittee saw the need to have the Shelters contract with a public health nurse or a nurse practitioner to conduct health screening in the morning for both the women and the children. The subcommittee also saw the need for health education to be a component of this health screening.

### Advocacy

10. Planning by funding sources for domestic violence should include advocacy as an essential component for abused spouses. Advocacy should include legal information and support to the victim, financial help and planning, help in securing second stage housing and the acquisition of appropriate long-term counseling and support.

11. The use of male advocates for the male batterers should be considered, perhaps successful graduates of the domestic violence program.

12. Domestic violence programs should explore hiring a community organization worker to develop volunteer resources and to tap existing service organizations such as NOW, NASW, AAUW, the Junior League, the Lions, the Elks, and the Knights of Columbus. The use of volunteers and previously abused women as volunteers has been successful in many of the mainland spouse abuse projects.

### Housing

13. Hawaii Housing Authority should set aside units to be available as second stage housing for abused women and their families.

14. Section 8 housing should be allocated on a preferential basis to abused women as they exit the Shelters and seek more permanent housing.

15. Domestic violence providers should explore the possibility of providing some type of temporary shelter/housing for men (perhaps such as the units at Sand Island) when they are ordered out of their homes or when a TRO has been issued.

### Training

16. A consortium of public and private agencies and providers should be convened by the University of Hawaii

School of Social Work to develop training and supervision guidelines and content for ongoing education and monitoring of domestic violence services. Treatment resources for both batterers and victims should be greatly expanded.

### Counseling

17. Funding sources should explore the need for more counseling services to be arranged from self-help groups, facilitated groups, long-term counseling, educational programs, and more intensive therapy for batterers, victims and children of violent families.

18. Special emphasis should be placed on providing specialized children's services. There exists, at the present time, very limited services designed particularly for children who are learning that violence is an appropriate way to express a feeling or solve a problem. Child care for these children is not enough. Assessments, individual and group counseling, assertiveness and communication skills and safety plans are necessary for their improved development.

### CONCLUSIONS

After thorough examination of our community's resources the Task Force is more aware of the strengths and weaknesses of these resources and the ways in which a system wide coordinated approach would better serve the clients and aid us in reaching our goal for violent-free families.

Currently, these fragmented services and resources are informally organized, and operate with varying levels of understanding of the problem. In addition, they have distinctively different degrees of commitment to resolving violence within families. A broad spectrum of services from prevention to rehabilitation and advocacy must be designed for Hawaii.

## IMPLEMENTATION OF RECOMMENDATIONS

The recommendations contained in this report are at various levels of specificity. Many of the recommendations are at the general level of planning possible for a broad, community group. Refinement of these recommendations for implementation will require two separate focuses: 1) funding and development of needed services; and 2) improvement and development of policies and practices.

The first focus, the development of funding resources, is being addressed, although from different perspectives, by several entities: Aloha United Way, trusts and foundations, Department of Health, Department of Social Services and Housing, and Family Court. It is suggested that as a first step, a mechanism for the exchange of information be initiated, perhaps by Aloha United Way as the convener. A liaison could be created between the funding group and the second or "core" group of those agencies currently involved with the provision of domestic violence services.

## OUTLINE OF A COORDINATED SYSTEM

The formation of a core group of those responsible for implementing policy and procedural recommendation is needed, to work toward implementation and toward the development of working agreements between agencies. This working group should include the police, the prosecutor, Family Court, specific domestic violence service providers, and others.

Various models, both here and nationally, exist for this type of ongoing interagency coordination. Adaptations of these models should be explored and a model selected at the earliest possible time.

## THE INTERVENTION PROJECT

One of the most successful models for system coordination, the Intervention Project of Duluth, Minnesota, could be emulated with a small staff (two or three members) contracted to assist the agencies in developing and negotiating strategy to accomplish the Task Force recommendations within a two-year period. The Task Force in its present form would no longer be required.

This Intervention Project could operate with monies raised privately and perhaps subsidized with public (state/county) funds. The project could be placed under the auspices of an existing organization such as the Hawaii State Committee on Family Violence or Health and Community Services Council or another entity willing to provide support for this construct.

Although this type of funding has usually been denied in favor of funding direct services, the Task Force strongly felt that the need for a coordinated approach is critical to the effectiveness of services that are provided.

## CONCLUSIONS

The Spouse Abuse Task Force was formed in response to the need for new and improved policies, procedures and services. Without exception, its findings affirmed the extent and seriousness of spouse abuse in our community. Furthermore, it found traditional practices in social services, law enforcement, and the courts are being challenged by new information, mounting caseloads, and public opinion. These factors make clear that spouse abuse is a public concern requiring the highest level of planning and resources from our institutions.

Although the informational basis for these findings was more than ample, the Task Force was not able to study all programs and resources equally, and it was not able to answer all of the important questions that should be posed. Further study should include some consideration of different areas such as: parole and probation services which process offenders, many of whom have a history of spouse abuse; linkages between different social service providers; and medical services which have contact with victims in emergency and nonemergency settings. This last area was explored by a subcommittee which worked closely with social services staff from Queen's Hospital to develop procedures for suspected and confirmed cases. Because the Task Force had insufficient resources, the work of this subcommittee could not be included in this report but should be used as a basis for future study and action.

Finally, methods and services for the prevention of spouse abuse were not specifically studied except as hoped for consequences of existing services. Because spouse abuse is such a broad social problem, public education efforts must receive immediate attention. Institutions generally reflect public values rather than lead the way for change. A vigorous campaign designed to strengthen public awareness and concern is a critical adjunct to the recommendations proposed herein. Line workers, who are in daily contact with both victims and batterers, report the appalling lack of information about non-violent alternatives, the pervasiveness of destructive myths and blaming, and the poignancy of children "learning" to start a new cycle of their own.