

NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
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CESAR A. PERALES
 Commissioner



[An Informational Letter informs local districts of potential developments in the Social Services field, or of actual or potential developments in collateral fields of interest.]

INFORMATIONAL LETTER

TRANSMITTAL NO.: 83 INF-3
 [Services]

TO: Commissioners of Social Services

SUBJECT: Child Protective Services and
 Domestic Violence

DATE: February 15, 1983

SUGGESTED DISTRIBUTION: Commissioner
 Directors of Services
 Child Protective Services Staff
 Adult Protective Services Staff
 Societies for the Prevention of Cruelty to Children

CONTACT PERSON: All inquiries regarding this release should be directed to Mr. Jamie Greenberg, Bureau of Policy Planning, Division of Services, Section 11-D, 40 North Pearl Street, Albany, N.Y. 12243, phone toll free 1-800-342-3715, extension 4-9591.

I. PURPOSE

The purpose of this letter is to bring to the attention of CPS workers the fact that a parent or guardian of an abused or maltreated child (or one suspected of being abused) may be experiencing domestic violence and that the CPS worker can assist such a victim.

II. BACKGROUND

The Child Protective Service worker's primary responsibility is the protection of children. This responsibility is met through the investigation of reports of suspected child abuse and maltreatment, the taking of children into protective custody,

FILING REFERENCES

Previous INFs/ADMs	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous References
78-ADM-48 78-ADM-114 78-INF-19 81-INF-16				

the arranging for and provision of services to families, etc. Historically, CPS's role in assisting victims of domestic violence in cases which they are investigating has varied from district to district. This letter is not recommending a change of principal focus; rather, it is attempting to sensitize CPS staff to the existence of domestic violence and inform such staff of certain basic information which may permit them to assist, generally through referral, victims of domestic violence.

Domestic violence is not a new or rarely encountered phenomenon although the frequency of its presence in situations involving child abuse is not easily estimable. Even if there is no child abuse in the situation, witnessing violence between spouses can have a severely damaging effect upon the child. Just as child abuse occurs in a variety of domestic environments and social and economic settings, so too does domestic violence. There are many reasons why the violence occurs and many reasons why the victim remains in the violent situation. It is the goal of this Department to make it possible for families to stay together without violence and, where this is not possible, to help the victims eliminate the abusive situation and begin to build upon their strengths.

III. IMPLICATIONS

In dealing with a victim of domestic violence, the CPS worker should be aware of his/her own feelings about domestic violence and the victims of such violence. It is important to be non-judgemental and as supportive as possible where domestic violence is perceived to exist. The worker may wish to discuss the situation with the victim to assess the degree of danger the victim is in so that the appropriate referrals can be made. The worker should become familiar with the resources available to a victim, if not in detail, at least generally.

IV. RECOMMENDED ACTION

It is recommended that CPS staff become familiar with the following resources in a general way so that they may better be able to assist victims of domestic violence:

- 1) Local District Staff: Know the people on staff whose job it is to provide services to victims of domestic violence. For example, is it the responsibility of the Adult Protective Services worker? Is there a special Domestic Violence Unit within the local department? Who is aware of community resources such as shelter and counseling available to victims of domestic violence?

Consideration should be given to arranging information sharing sessions with community resources for CPS and Domestic Violence workers to discuss program aspects, priorities and future directions.

- 2) Statewide Hotline: The number for the toll-free, statewide Domestic Violence Hotline is 1-800-942-6906. The hotline is operated 24 hours a day, 7 days a week and can provide information on resources available to victims of domestic violence in any area of New York State. The hotline will also provide assistance in resolving any conflicts that may arise in securing services for a victim.
- 3) Statewide Directory of Services to Victims of Family Violence:

This is a comprehensive directory of services available, arranged by county for easy reference. This directory is currently being updated and a copy will be sent to each local commissioner under separate cover. Updates in the form of page replacements will be distributed periodically. If additional copies are needed, they may be obtained by calling this Department's Domestic Violence Program staff at 1-800-342-3715, extension 4-9575.

Types of services listed in the directory include: shelter services, counseling services, support groups, community education/outreach, and information and referral. A brief description of some of these services follows:

Shelter Services

Special Care Homes: These are shelters with seven or more beds, licensed by New York State Department of Social Services, that provide temporary shelter (up to 90 days) for victims of domestic violence and their children. These shelters are required to provide, either directly or by referral, services including, but not limited to: counseling; child care and supervision; recreational and developmental services; information and referral; after-care services.

Safe Homes: These are private residences that provide temporary emergency shelter in a home-like environment for one to three days for victims and their children. Safe homes are informally approved by local departments of social services and are responsible for providing temporary living arrangements only. Counseling and other supportive services are usually provided by a coordinating agency in the community.

Other: Emergency refuge may be provided by a domestic violence program in hotel/motel rooms, YWCAs, Salvation Army's, etc. If the program has a building affording sleeping arrangements for six or less people, shelter may be provided without the need to be licensed.

Counseling Services

Because the negative impact of domestic violence is felt by all members of the household, counseling services are available for not only the victim, but perpetrator of the violence and other family members as well. Long and short-term counseling is offered on an individual, group, couple or family basis.

The incidence of domestic violence is usually the result of a build-up of frustration over many things. Because the factors that lead to the violent situation are numerous, counseling is available in many areas: drug and alcohol abuse; parenting; stress management; employment; family planning and pregnancy; and psychiatric, legal and educational counseling.

Support Groups

These groups are usually made up of victims of domestic violence and serve to provide other victims with the encouragement they need to change the violent situation they are in.

Although few in number, there are currently some support groups for abusive men.

Community Education

Many domestic violence programs offer community education programs for the purposes of bringing the problem to the attention of the public; emphasizing the existence of services available; and encouraging the unidentified victims to seek help.

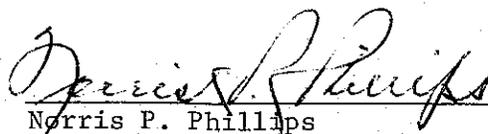
- 4) Public Assistance Benefits and Services Available: Local districts are responsible for providing public assistance and services to persons in need due to life threatening situations and/or physical endangerment caused by a spouse or abusive household member. Services to be provided may include financial assistance, information and referral, securing family shelter and other services necessary to cope with with the emergency situation. In most cases, the use of Emergency Assistance to Families (EAF) funds would be appropriate for providing these services to victims of domestic violence if they have children. If the victim has no children, the use of Home Relief funds, or possibly EAA funds, would be appropriate.

For a detailed explanation of these services, see 78-ADM-48, 78-ADM-114 and 78-INF-19.

- 5) Police and Court Procedures: The attached handbook, prepared by Brooklyn Legal Services, is an excellent reference tool regarding police and court procedures in domestic violence situations. The book was written as a self-help guide for battered women and it should greatly assist workers in their explanation of the procedure and consequences of police and court action. Copies are available in both English and Spanish from Brooklyn Legal Services.

In addition, 81-INF-16 details amendments to laws relating to Family Offenses.

attachment


Norris P. Phillips
Deputy Commissioner
Division of Services

Copies of this Handbook
(with plain back) are available from us
in English and in Spanish
for distribution by your agency.

Brooklyn Legal Services Corporation B
105 Court Street • Brooklyn, NY 11201

Non-Profit Org.
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Handbook for Beaten Women

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1981 revision

Handbook for Beaten Women

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Introduction

This booklet tells you what you can do if you are threatened or hit by your husband or boyfriend. It is a self-help guide. You must be ready to do something for yourself if you want the threats and beatings to stop.

Your husband or boyfriend has no right to hit or injure you. It is against the law for a man to beat or threaten his wife or girlfriend. Unfortunately, the police and the courts often do not believe that fights between couples are serious. As a result of this attitude, many court officials and police officers discourage women from bringing their cases or continuing with them after complaints have been filed. Many times women give up because going to court takes so much time, work, and patience. Even a woman who has been badly injured must fight hard just to get her case before a judge, and then to get the judge to believe her instead of her husband.

Although some police officers, court officials, and judges are beginning to be concerned about family violence, in some areas delays still result from crowded courts. People may wait all day for their cases to be heard by the judge. There are many adjournments, which means that nothing happens, and you have to come back to court again. In fact, more than half of the women who complain to the courts of beatings or threats drop their cases or withdraw their complaints. Certainly, the hassles they face from the police and the courts contribute to the "dropout rate."

Before you start a court case, you have to think about the time you will be able to spend. You also have to decide if taking the man to court will be the best way to get him to stop beating you; sometimes it is better to seek family counseling or to move away and get a divorce. But there are times when court is the only answer because your husband or boyfriend will not leave you alone. When that happens, you should know how to get the court's help, which is why this booklet has been written.

Agency at 577-7777. Elsewhere, call the women's organizations in your area, or your State Assembly member or Senator. Look for a crime victims' assistance project. Try the YWCA, churches, Catholic Charities, the Salvation Army, a rape crisis hotline, or the local Department of Social Services. Ask a Family Court probation officer, clerk, or court officer or the sergeant at the police station. Call the telephone information operator. You may call the Department of Social Services' statewide toll-free number for the name and number of battered women's service programs nearest to where you live; this toll-free number is 1-800-342-3715.

Save evidence

Try to get your friends, relatives, or the women at the shelter to take color pictures of your injuries as soon as you arrive. Have the photos signed and dated by the person who took them. Save any torn or bloody clothing. The pictures and clothing may be shown to the judge to support your explanation of why you left your husband.

Get medical treatment and tell the nurse or doctor the name of the person who injured you. The medical records may be used in court to prove your case. These will assist your lawyer in getting the best possible settlement in a divorce, or will help you get court protection even if you do not want a divorce.

Call the police

You should call the police during or immediately after the attack or threat if you want the man who beat you arrested, or even if you only want protection so that you can leave.

What to do if your husband or boyfriend beats or threatens you

Move out

Move away with your children. Stay with a woman friend or with relatives. Do not stay with a man who lives alone, unless he is your brother, father, or grandfather. It would appear as though you were committing adultery. This could cause a custody fight. You would certainly lose any chance of getting alimony (or "maintenance," as it is now called) and you might lose a chance to get a share of any marital property. But if you have no children and you are self-supporting, and do not need alimony, and have no shared property, and your husband is not working, there is not much in the way of property, alimony, or custody to lose.

Do not leave your children with your husband. You would seem to the court to be a neglectful mother who abandoned her children. This would give your husband a strong legal weapon to use against you. He could try to win custody of your children, or threaten to try to get custody. He could use this to force you to take less child support or alimony. It would make it difficult for your lawyer to get you as much as your husband can afford to pay.

Go to an emergency shelter

A community group or local government may have emergency housing for battered women and their children. This kind of shelter is new, so you will have to look hard to find it. In New York City, call the Victims' Services

Whether or not you are legally married to the man, if you are physically hurt you may go to the police and ask the police to arrest him.

If the police refuse to arrest him, you have the right to make the arrest yourself. This is called a "civilian arrest." The police must assist you in taking the man to the police station and filling out the arrest forms.

If the police say they cannot help you because the man is your husband or the father of your children, write down the officers' names and badge numbers. Let them see you do this. Then report them to their commanding officer or the Civilian Complaint Review Board.

You may also go to the police station to sign a complaint and request that the man who injured you be arrested. You might try to see the District Attorney if you were seriously hurt and required hospital care and the police would not make an arrest.

Go to court

• If you are legally married:

If you are **legally married** to the man who beat or threatened you, you may go to the Family Court or the Criminal Court in your county. **It is your choice.** If your husband is arrested, tell the police officer whether you want to go to Family Court or Criminal Court. Then ask the officer when to go to court and for the address of the court. You must go to court when your husband is brought before the judge for the first time so that you can ask for an immediate Temporary Order of Protection. (See "What Criminal Court can do for you," page 17.)

If you are getting a divorce, separation, or annulment, you may request an Order of Protection from

Supreme Court at any time before the trial or settlement is final. Discuss your need for an Order of Protection with your lawyer.

If you do not want to make a criminal complaint, you may go directly to Family Court. Your husband does not have to be arrested. (See "What Family Court can do for you," page 8.)

• **Divorced without children:**

If you are *divorced* and do not have children, you may go only to Criminal Court for an Order of Protection.

• **Divorced parent:**

If you are a *divorced parent*, you have a choice. You may go to Criminal Court, or if you have a custody or visitation order from Supreme Court or Family Court you may go back to the court that gave the custody or visitation order and request an Order of Protection. This Order of Protection is then made a part of the custody or visitation order. You will need a lawyer to represent you in Supreme Court because you will need technical, legal papers. You do not need a lawyer in Family Court, but it is better to have one to present your case and to write your petition.

• **Never legally married, with children:**

If you were never legally married to the man who beat or threatened you, but he is the father of your child, you may ask the Family Court for an Order of Protection. You may do this only if you also request the Family Court to declare him the father in a "paternity" case. You may also ask for child support and custody. You should talk to a lawyer before you start a paternity case. Note that the father of the child may also ask for custody or visitation.

• **Never married, with or without children:**

If you were never married to the man who beat or threatened you, you may go to Criminal Court, where you may request an Order of Protection.

Court choices for Orders of Protection

You may go to → if you are ↓	Family Court	Criminal Court	Supreme Court
legally married	●	●	●
divorced/no child(ren)		●	
divorced parent	● need custody or visitation order	●	● need custody or visitation order
never legally married/ with child(ren)	● need paternity case	● Order of Protection: with criminal prosecution only	
never legally married/ no child(ren)		● Order of Protection: with criminal prosecution only	

When court can help you

Family Court or Criminal Court can help you if your husband or boyfriend does any of the following:

- 1 Places you in fear of physical injury;
- 2 Threatens you;
- 3 Attempts to injure you;
- 4 Injures you.

Go to Family Court.

The court clerk will want to know why you did not come sooner. You may have to return several times and wait all day. Courts are very busy. You must decide if you can spend the time and if the court can give you the kind of help you need.

What Family Court can do for you

- 1 Help you and your husband get counseling;
- 2 Give you custody of your children;
- 3 Order your husband to give you support for yourself and your children;
- 4 Order your husband to stop injuring you;
- 5 Order your husband to move out of the house;
- 6 Order your husband to stay away from you and your children;
- 7 Set a time and place for your husband to visit with the children;
- 8 Order your husband to pay for your lawyer if your husband has money;
- 9 Order custody, visitation, and child support even if you are not married to the father.

However, Family Court *cannot* give you a divorce, legal separation, or annulment. For that, you must see a lawyer, and the case must go to New York's Supreme Court. Family Court also *cannot* award you all or part of the furniture, the family car, or part of the money in the bank accounts. It can award you support money only.

You may *not* seek an Order of Protection in Family Court while there is a Criminal Court case pending on the same charge. But you may seek support in Family Court or a divorce in Supreme Court while a criminal case is pending.

How to get Family Court help

In Family Court, ask for an "Order of Protection," which can order your husband to stop bothering you or to stay away from you and which may give you custody of your children and the other relief listed above. When your case is heard, the judge will decide exactly what the Order of Protection should say.

You will be given an appointment to see an Intake-Probation Officer. If you want help immediately, you should be seen that day or the next day. The Probation counseling is voluntary. If you do not want counseling by the probation officer, you can file your petition for an Order of Protection immediately. Filing your petition is the way your case gets to be heard by a judge.

Temporary Order of Protection

If your case is an emergency and you are in immediate danger of being injured by your husband, you should ask to see a judge that day to request a "Temporary Order of Protection." A Temporary Order of Protection orders your husband not to harm you, and it lasts until the date

set for you and your husband to come to court for a trial. To get this Temporary Order of Protection, you will have to convince the probation officer and the judge that you are desperate and in need of immediate protection. You can do this by showing the judge your bruises or wounds (or photographs of them), and by telling the judge just why you are afraid. Bring witnesses if you can. Tell the judge what your husband did to your children. If the children got upset and scared, tell that too.

You will be asked when your husband hit or threatened you. If you have waited more than two days before coming to court, you may not get a Temporary Order of Protection. Because you did not come to court immediately after the attack, the people at court will believe that you are not in danger. If you are in need of immediate protection while you wait for the court hearing date, you must explain why it took so long to get to court. You must convince the judge that there was good reason for the delay: you were too badly hurt, or you did not know where to go, or you were getting medical treatment.

The person at the appointment desk and the judge will both ask if this was the first time your husband attacked you. If it was the first time, they will try to get you to forgive him. But that is your decision. You cannot be prevented from seeing a judge. If it was not the first beating, they may not take your complaint seriously unless you point out that this attack was worse than the previous ones, that you were hurt and made fearful. They may not understand that you felt guilty and ashamed (even though you had no reason to feel that way), and that you tried to forgive and forget the previous attacks. We know that it takes a long time for a woman to get the courage to seek help from Family Court.

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you get counseling for yourself or for you and your husband. Probation counseling may continue for one or two appointments, or until you or your husband want to stop it to see a judge.

Probation tries to find out if you want court action or other help. Your husband will be asked to come to an interview. If you come alone, the probation officer will counsel you. If your husband comes also, the probation officer will try to help you and your husband work things out. There are good probation officers and there are bad ones. If you are not happy with your counseling, you can end the probation counseling and file your petition right away. **You do not have to accept counseling by Probation.** You can file your petition and get your case before the judge.

Petition

The clerk or probation officer will help you fill out a petition asking for an Order of Protection and will then give you the date when you and your husband should return to court for a hearing before the judge.

Tell the clerk what your husband did to you, but be brief. Do not go into a long story. The clerk is not a judge. You do not have to convince the clerk that you are right.

Tell the clerk what you want the judge to do:

- 1 Order your husband to stop threatening or hitting you;
- 2 Order your husband out of the house;
- 3 Order your husband to stay away from you and the children;
- 4 Give you the custody of the children;
- 5 Set a time and place for your husband to visit with the children;

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Sometimes people at court think that if a wife has put up with beatings in the past, she does not really need the Family Court's help. You have to let them know that this unspoken belief is not true. You must tell them that you are in need of their help and that you will return for appointments. The fact is that many women do not return for court appointments. They get scared and decide to try to make peace at home. People at court often give this as a reason for not seriously considering a woman's request for an Order of Protection.

Arrest warrant

The judge may give you a warrant for your husband's arrest instead of a Temporary Order of Protection. Take this to the police station in the area where your husband lives or works or can be found. Go with a police officer who is assigned to make the arrest to identify your husband. If Family Court is open (Monday through Friday, 9 a.m. to 5 p.m.), your husband will be taken there. If Family Court is closed, your husband will be taken before a Criminal Court judge or a town justice who will decide if he will be held in jail until Family Court is open or released and ordered to go to Family Court. If it is late at night and no court is open, your husband will be held by the police until he can be taken before a judge the next morning.

Probation interview

If you do not need a Temporary Order of Protection, you will be given an appointment to see a probation officer in a few days or weeks, depending on the court schedules. This officer is not a judge and cannot give you an Order of Protection. Probation can give you counseling, or help

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6 Order your husband to give you support money for yourself and the children;

7 Order the police to assist you to remove your belongings from the house;

8 Order your husband to pay for your lawyer if your husband has money;

9 Order custody and child support even if you are not married to the father.

The clerk will ask you to sign the petition and swear to the truth of what it says. Read it carefully. Tell the clerk to correct any mistakes you see in it. Ask questions if you do not understand what is in the petition. Sign it when you are sure it is correct. Ask for a copy to keep for yourself.

Summons

The clerk will arrange to have the papers given to your husband or will give you a court summons (which tells your husband that he must come to court and on what day) and a copy of your petition with instructions for a friend, relative, sheriff, or process server to give them to your husband. You must have someone serve the papers at least two days before the court date. If a friend or relative gives your husband the papers, a police officer can be asked to go along, but only for protection; the police officer is not allowed to give your husband the papers.

If you have a sheriff or process server give the papers to your husband, they will charge you for it and will also probably take their time. A friend or relative is the better choice. You may **not** serve the papers yourself.

Whoever gave your husband the papers must sign a sworn "affidavit of service," which you will receive from the clerk. This affidavit of service must be signed in front

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of a notary and notarized and then kept by you to give to the judge when you go back to court for your hearing. If your husband does not come to court, this paper is proof that he got the summons and a copy of the petition.

Court hearing

Your husband must come to court on the date set in the summons. (The summons is a court order telling him to appear in court.) If he does not, your case will be adjourned, and you will be given a new court date. Ask the judge to issue a warrant for your husband's arrest by the police. If your husband does not come after several times, ask the judge to give you an Order of Protection and a warrant. Wait to get a copy of the warrant. Immediately take the warrant to the police station near where your husband lives, works, or can be found. You must go with the police officers to point out your husband. They will arrest him and take him to the Family Court. You may call the police if your husband comes to your home. Show them the warrant and ask that your husband be arrested and taken to Family Court. If the police refuse to arrest your husband on the warrant, write down their names and badge numbers. Let them see you do this. Call their captain at the police station and tell him that you have a warrant and the officers will not make the arrest. This should get them to do it.

Even if your husband does appear in court, the case may still be adjourned to permit him to get an attorney. You should have your own lawyer present.

Both you and your husband have a right to court-appointed free attorneys, if you are poor; if you can afford it, you must pay for your attorney. If you get an Order of

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Protection and your husband has money, the judge may order him to pay for your lawyer.

Be ready on every court date, even if your husband said he would not be there. You want to impress the judge, so dress neatly, as if it were a job interview. Your sworn statements will be good proof of your case, but if you have witnesses, medical reports, and photographs, bring them with you. Show them to the judge at the hearing, but not if a new date is being set. Show them only if the judge asks you to tell your story.

At the hearing the judge will try to determine what happened between you and your husband and will decide whether or not to sign an Order of Protection for you. Everything depends on how well you present your story to the judge. Do not shout, but speak loudly, slowly, and clearly. Practice with a friend. Tell what your husband did to you. Tell of your injuries and fear. Tell how the beating affected your children and if your husband hurt them too. Make it short. Answer the judge's questions briefly. Do not show anger with what the judge asks or says. If you get upset, don't be ashamed to cry.

Talk only to the judge. Your husband will tell his side. Do not get angry at your husband, and do not fight with him or answer him back. Do not interrupt your husband no matter what he says. When he is done, you can tell the judge your side of the story.

Some judges are very sympathetic to battered wives, but there are other judges who blame women for starting the fights in which they get hurt. This is the gamble whenever you go out to court. The judge has complete control over whether you get an Order of Protection and what it will say. If the judge believes your husband and decides that you provoked him or attacked him first, your petition

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may be dismissed or a mutual Order of Protection issued ordering both you and your husband to stay away from each other. A mutual Order of Protection is a court finding that you were equally to blame.

Copies of Orders of Protection are sent to the police by the Family Court. You may give copies of the Order of Protection to the police if you move to a new home or want to have the police where you work or go to school know about your Order. Thus, even if you do not have a copy of your Order of Protection, the police may check their station or a central "warrants" number for it.

Enforcing an Order of Protection

If you get an Order of Protection and your husband violates any part of it, you may call the police just for protection while you and the children take some clothes and leave. You may also do either of these two things:

- 1 Call the police and have your husband arrested. The police are supposed to arrest him if you tell them what happened and show them your Order of Protection. Ask them to call their station or "central warrants" to check on your Order of Protection. (If the police officer refuses to arrest your husband, take his or her badge number and write it down. This may force him or her to help you. Call the police chief or captain.) Your husband will be arrested and taken to the police station. The police will tell him to show up at Family Court the next morning (or on Monday if he is arrested over the weekend), and shortly after the arrest he will be released. Or:

- 2 Go to Family Court and file a new petition called "Violation of an Order of Protection." A new summons and a copy of the petition will have to be handed to your husband again. (See "Summons," page 13.)

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In either case, there will be a hearing just like the one you had when you got the Order of Protection. Prepare the same way: bring witnesses, photographs, and medical records. You must convince the judge that your husband violated the Order and you got hurt or scared. Your husband will have a right to an attorney. You should have your own lawyer if you can afford to pay one. After the hearing, if the judge believes you, the judge may impose strict orders, such as ordering your husband out of the home, or putting him in jail. The judge may also order your husband to pay your lawyer if your husband has money.

What Criminal Court can do for you

- 1 Set criminal charges against your husband, ex-husband, or boyfriend;
 - 2 Release him with or without bail on his promise to return to court for a hearing;
 - 3 Give you an Order of Protection, if you are married or divorced, ordering your husband or ex-husband to stay away from you and the children;
 - 4 Adjourn the case for six months on his promise not to hurt you any more;
 - 5 Set a time and place for him to visit with any children;
 - 6 Sentence him to jail or probation and order him to stay away from you and the children after a conviction.
- Criminal Court cannot decide property or money disagreements or give you support for your children. If the man who attacked you is the father of your children, you must go to Family Court to get child support. That is a

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separate case and has nothing to do with the Criminal Court case. Although you cannot have a case about the same threat or attack in both Family Court and Criminal Court at the same time, you can have one case about the attack in Criminal Court and another case about support in Family Court, or divorce and support in Supreme Court, at the same time.

What happens at Criminal Court

When your husband or man friend is arrested for beating you, the district attorney, if you live in a city, will present the case to the judge. In smaller towns after 5 p.m. and on weekends, the police will take the arrested man before a town or village judge and there will not be a district attorney or a court-appointed lawyer for you. The arrested person ("defendant") has the right to a free, court-appointed lawyer. The judge may set bail or release the defendant and tell him to be in court the next morning or Monday morning, *or may dismiss the case*. Thus, you must go to court to convince the judge (and the district attorney, when there is one) that you should have an Order of Protection and that the case should not be dismissed.

Ask the arresting police officer when and where to be in court. If you are confused, ask questions. Try to get help from a crime victims' program or from a battered women's service if there are any in your area. The police or the district attorney should be able to tell you how to find them.

When you go to court, it is important that you present your case well. Do not shout, but speak loudly, slowly and clearly. Practice with a friend. Tell what the man did to you. Tell of your injuries and fear. Show pictures

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You may *not* seek a Family Court Order of Protection at the same time the case is in Criminal Court. You *may* seek support in Family Court, or a divorce and support in Supreme Court, while there is a case in Criminal Court.

Enforcing an Order of Protection in Criminal Court

Call the police if your husband violates your Order of Protection. They should arrest him. Show them a copy of the Order of Protection; ask them to call their station, the central warrant file, or the district attorney. If the police officer refuses to make the arrest, copy his or her badge number and call the district attorney as soon as possible.

What you can do for yourself

If you are not married, you may leave your boyfriend and take your children with you. You may apply for welfare, and you may go to the Family Court to seek an order of filiation or paternity, which states that your boyfriend is the father of your child and orders him to pay child support. You may also request custody and an Order of Protection.

If you are married, you may leave your husband and take your children with you. You may also apply to welfare for assistance and to Family Court to get support for yourself and your children. No one can say you abandoned your husband if you have "good cause." If your husband was physically or *mentally* cruel to you with his threats, you do not have to continue to sleep or live with him, and you do not lose your rights to alimony and child support by leaving.

of your injuries. Tell how the beating upset your children. Make it a *short* story.

Answer the district attorney's or judge's questions briefly. Do not show anger with what the judge or district attorney asks or says. If you get upset, it is okay to cry.

Talk only to the judge. The man who hurt you will tell his side of what happened. Do not get angry with him. Do not fight with him or interrupt him, no matter what he says. When he is done, the judge will let you talk again.

If the judge decides to charge your husband or man friend with a crime, the case will be sent to the district attorney and bail will be set. You must help the district attorney and show that you will stay interested in the case. You must come to court on time each day the case is being heard. You may have to go before the grand jury if a weapon was used or if your injuries were very bad.

Some district attorneys are not interested in family violence cases. You must show that you are interested. Show your evidence. If you have trouble getting the district attorney to prosecute the case, get help from a crime victims' service, from a women's center, or from the people at a refuge for battered women if there is one in your area. The final decision about whether to prosecute is up to the district attorney. If the district attorney takes your case in Criminal Court, the Criminal Court judge can give you an Order of Protection, but you must tell the district attorney that you need it. The district attorney should then request the Order of Protection for you.

If the district attorney says that your case cannot be won, or your evidence is too weak, and he or she refuses to prosecute the case, you may go to Family Court for an Order of Protection instead of Criminal Court, but only if you are *married* to the man who beat or threatened you.

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You may also sue for divorce or separation either while you are still living with your husband or after leaving him. Go to a Legal Aid or Legal Services lawyer for free advice and assistance with the divorce if you have no money. If you can pay a lawyer or your husband has a good income and a steady job, you should hire a lawyer. (In New York, the lawyer can get his or her fee from your husband if your husband has the money.)

Questions you should ask when retaining a lawyer

Many people are disappointed with lawyers. This results from expecting too much and not having the right tools for choosing a lawyer. A lawyer is not a social worker, psychologist, or confessor. But an understanding lawyer can refer you to counselors and psychologists to help you through the stress of a divorce or a Family Court case.

These are some of the questions you should ask the lawyer before you decide whether or not to hire him or her:

- How much do you charge by the hour? For a first meeting?
- What is your minimum fee for my kind of case?
- What is covered by your fee?
- How many negotiating sessions are included?
- How many court appearances are included?
- What is your rate for appearance in court?
- Do you have a written retainer agreement that I can sign and a copy of it for me to keep?
- Can you suggest a family counselor, or social worker, or psychologist?

After telling the lawyer the facts of your case and how much money you have, ask:

- How much money and/or child support can I expect to receive?
 - What property settlement can I expect?
 - What part of your fee will my husband have to pay?
 - Are you willing to seek and enforce temporary custody, support, and protective orders?
 - Are you willing to enforce final Family Court orders and judgments of divorce?
 - What are your fees for enforcement? Hourly rate for enforcement?
 - Will you seek changes in final orders and judgments if new circumstances justify the changes?
 - What are the practical limitations on enforcement?
- Also ask:
- What should I do to help you with my case?
 - What do you expect of me?
 - What papers, documents, and witnesses should I assemble for you?

If you have reservations about the quality of the lawyer's responses, or the style of the lawyer, shop around. There is no absolutely right approach for a lawyer to take. You should select a lawyer whose values and attitudes are similar to your own. This choice should be made before the start of your case and before you hire a lawyer. Don't be afraid to look for another lawyer if you do not like the first one. But make your choice before the case begins; people who change lawyers more than once after the start of a lawsuit hurt their own chances of being believed by the judge and make a good settlement or successful trial more difficult. Evaluation of the attorney you select to represent you should be made before you decide to retain

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him or her. But if you must change lawyers, do so quickly and only once in the course of the case. Make sure that your new lawyer has a clear picture of why you changed. This will avoid repeating your previous mistake and will give your new lawyer weapons with which to defend your change of lawyers.

There are so many lawyers practicing that you do not have to hire one you don't like. Ask friends for the names of lawyers they like. If you take the time to choose, you should be able to find a lawyer you trust and respect.

What you may receive on welfare

Welfare gives you a budget for food, clothing, rent, and free medical care. If you have some income, you may be able to get a supplement, Medicaid (free medical care), and food stamps. Even if you are not eligible for welfare, you may be able to get Medicaid and/or food stamps. Moving expenses, furniture grants, and rent security deposits are sometimes available.

How to get on welfare

In order to receive welfare, you must fill out an 11-page application form and have proof that you are eligible. This section outlines steps in the application process for public assistance.

Application process: How it should work

1 Pick up application.

Using the telephone book, locate the Department of Social Services nearest your home. Call before you go to

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make sure that it is the proper office for your address (the place where you are staying, even if it is temporary). If it is not, ask them to tell you the address of the Department of Social Services office where you should go to make an application for assistance. Advance checking will save you wasted time, carfare, and frustration.

The first time you go to the welfare office the receptionist should give you the application form, a "reference guide" listing papers and documents that you must have to prove you need welfare, and other pamphlets on your rights. The receptionist should explain the application process and give you an appointment to return for an interview in five days (not counting Saturday and Sunday). In an emergency, when you have no money for food and nowhere to live, the interview should be that same day and you should receive a check that day.

2 Application interview.

Go home and fill out the application form and gather the necessary documents to prove eligibility. Return to the center for your interview on the date set. You will see someone in the center's application unit who will check the form and documents. If everything is filled in properly and you have the necessary documents, the worker will make a recommendation to the supervisor. The application supervisor, in turn, should issue a final, written decision not later than the following working day. A copy is mailed to you, together with a statement of the aid you will receive if the application is approved.

A decision on the application may be delayed if you need to bring more documents, but the decision must be made within 30 days after the agency receives the application (the date of your interview). In case of immediate

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need, you should receive temporary aid. This is generally referred to as a "pre-determination grant."

3 Documentation.

According to New York State regulation, basic facts of eligibility—the applicant's identity, family size, residence, rent, and income, if any—must be verified by documentary evidence "wherever possible." Thus, an application may be denied because all birth records are in another state and therefore identity has not been verified.

Documents you will need	Alternatives
your birth certificate your children's birth certificates	baptismal certificates passports school records
apartment lease mortgage bill or statement from bank	rent receipts affidavit by person with whom you are living or to whom you are paying rent
unemployment insurance book disability award letter pay stubs income-tax forms from last year Family Court Support Order Family Court Statement of Arrears—from Accounts and Records Department	your affidavit of your past and present income letter from your employer

Bring originals and photocopies whenever possible. Give the worker the copies and *keep the originals*. If you have originals only, the worker will copy them while you wait and return the originals to you.

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In those centers using the old procedures, documentation hassles often arise from repeated requests for the same proof. Worker "A" will demand a birth certificate and, upon returning with the document, the applicant is rebuffed by Worker "B," who demands a baptismal certificate or school record. Get the names of workers with whom you talk so you can protect yourself. Again, make vigorous complaints to the supervisors.

As a general rule, aid should not be withheld because of inadequate documentation when there is emergency need. Also, documentation should not be required from the applicant when there is a reasonable explanation why it is not available: for example, your husband or boyfriend will not give them to you and the originals are in another state or country; you lost them or they were burned in a fire; you do not have the money to pay the fees to get new copies.

4 Past maintenance.

A special documentation problem called "past maintenance" arises from a requirement that you prove how you have lived in the past. This is easy for someone who has been laid off—payroll stubs should be adequate proof of past maintenance. Problems arise when an applicant has been borrowing money from friends or relatives and a welfare worker insists on proof of past maintenance for several years past. All too often applicants are rejected, despite actual need, solely because of technical failure to verify past maintenance. The proper interpretation of this policy is that you need only furnish a reasonable explanation and proof of the manner in which you are maintaining yourself and have maintained yourself in the recent past.

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5 Processing acceptance.

Because of the paperwork involved, it can take some time before you actually receive money. You may be told orally or by letter that you have been accepted, but it may be two or three weeks before you get a check. If you can prove that you have an emergency, you will receive the money sooner.

Emergency assistance for families

Every person is entitled to whatever is necessary to maintain life, including food, clothing, and shelter. In practice, however, workers often deny or delay emergency grants, and no effective remedy is available to deal with an immediate problem. You will need the assistance of a welfare advocate if this happens in your case. Call your nearest battered women's support group, women's group, Legal Aid Society, or Legal Services office. If you cannot find them, call Information and ask for the telephone number of your county bar association. The bar association should be able to give you the number for the Legal Services office, or tell you if there is one in your area. Call before you go there, because many offices see people by appointment only. Tell them you have an emergency welfare problem and ask for an immediate appointment. The local shelter for women may have a welfare advocate who can help you. Check with them. In addition, the Salvation Army, YWCA, Catholic Charities, and some local charity organizations may provide food and shelter for a night or two.

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Places where you may get help in New York State

This is a list of some places where you may find help in New York State. They are listed county by county, except for the five New York City counties, listed together under New York City. If you are unable to locate a nearby service, try a women's group, a rape-crisis telephone line, Catholic Charities, the YWCA, a hospital emergency room, the Department of Social Services, the police or sheriff's department, or the telephone information operator.

Albany County	Aid to Battered Women, Inc., 518/434-1200 Salvation Army's Emergency Lodge, 518/434-3466
Broome	Rape Crisis Center, Binghamton, 607/722-4256 SOS Shelter, Inc., Endicott, 607/748-1544
Cattaraugus	Catholic Charities, Olean, 716/372-0101
Cayuga	Battered Women's Project, Cayuga County Action Program, Auburn, 315/255-1703; after 5 pm: 315/252-2024
Chautauqua	Domestic Violence Hotline, Dunkirk, 716/366-1220 YWCA, Jamestown, 716/485-1137; after 5 pm: 716/484-1314
Chemung	Chemung County Task Force for Victims of Domestic Violence, Elmira, 607/737-2089 Domestic Violence Unit, Chemung County Dept. of Social Services, Elmira, 607/737-2077 ("Info-Line," 24-hour hotline) Salvation Army, Victims of Domestic Violence Program, Elmira, 607/732-0314
Clinton	STOP Domestic Violence, Plattsburgh, 518/563-6904
Columbia	Columbia Opportunities, Hudson, 518/828-4611
Cortland	Aid to Women Victims of Violence, Cortland 607/753-3639

Dutchess	Grace Smith House, Inc., Poughkeepsie, 914/454-6160 YWCA of Poughkeepsie, 914/454-6770
Erie	Community Action Organization, Buffalo, 716/881-5150 x215 Haven House, Buffalo, 716/884-6000 Simple Gifts Hospitality House, Buffalo, 716/884-5330 Salvation Army, Buffalo, 716/887-2711, -2731
Essex	North Country Legal Services, Upper Jay, 518/946-2151
Franklin	American Red Cross, Malone, 518/483-2360 Hotline, Saranac Lake, 518/891-1090 Tri-Lakes Shelter for Abused and Battered Women, Saranac Lake, 518/891-1133
Fulton	Fulton County Task Force Against Domestic Violence, Johnstown, 518/762-3617; after 5 pm and weekends: 518/762-4875
Genesee	Department of Social Services, 716/344-2580 YWCA of Genesee County, Batavia, 716/343-5808
Greene	Coalition Against Human Abuse, Catskill, 518/943-6760; evenings, weekends: -6666 Greene County Department of Social Services, Catskill, 518/943-3200
Herkimer	Family Abuse Task Force of Herkimer County, Mohawk, 315/866-2799
Jefferson	Jefferson County Women's Center, Watertown, 315/782-1855
Livingston	Chances and Changes, Genesee, 716/243-2720
Madison	Madison County Department of Social Services, Wampsville, 315/366-2226 Madison County Sheriff's Department, 315/366-2311, after 5 pm
Monroe	Alternatives for Battered Women, Rochester, 716/232-7353, -7359

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Battered Wives Group, Rochester, 716/232-1670
 Lidabell Lunt House, Rochester, 716/235-0020
 Monroe County Family Court, Office of Chief Clerk, Rochester, 716/428-5570

Montgomery Montgomery County Task Force for Battered Women, Sprakers, 518/842-3384

Nassau Coalition for Abused Women, Inc., East Meadow, 516/542-2594, -2595

New York City

Bronx Project Return Foundation, AEGIS, Manhattan, 212/295-3261
 Legal Aid Society of the Bronx, 212/991-4600

Kings Brooklyn Legal Services, 212/855-8003
 Park Slope Safe Homes, 212/499-2151
 Women's Survival Space, Brooklyn, 212/439-7281

New York Abused Women's Aid in Crisis (AWAIC), 212/686-1676
 Human Resources Administration, 212/564-1068, -0029

Queens Gustave Hartman YM/YWHA, Transition Center, 212/327-7660

Richmond Staten Island Family Services, 212/447-6398
 Staten Island Women's Crisis Intervention Center, 212/727-1509

Niagara

Haven House, 716/884-6000 (24-hour hotline)
 Task Force on Domestic Violence, Lockport, 716/433-6714
 Western New York Coalition Against Domestic Violence, Tonawanda, 716/692-5066
 YWCA Battered Women's Project, Niagara, 716/282-1273
 YWCA of the Tonawandas, Inc., Abused Women's Program, North Tonawanda, 716/692-5643

Oneida Women's Resource Center: Advocates Against Family Violence, Utica, 315/797-7740
 Family Service of Greater Utica, 315/735-2236

Onondaga Abused Person's Unit, Onondaga County Sheriff's Department, Syracuse, 315/425-3092

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Seneca Seneca County Department of Social Services, Waterloo, 315/568-9854
 Police, Waterloo, 315/539-9241

Steuben Project Reach, Wayland, 716/728-2021
 Spouse Abuse Task Force, Wayland, 716/728-5010

Suffolk Crossroads Family Facility, East Patchogue, 516/475-0300
 Long Island Women's Coalition, Islip Terrace, 516/666-8833
 Victims Information Bureau of Suffolk (VIBS), Hauppauge, 516/360-3730, -3606

Sullivan Alternatives to Family Violence County Task Force, Monticello, 914/794-0440
 American Red Cross, 914/794-5170

Tioga Tioga Opportunities Program, Inc., Department of Family Planning, Owego, 607/687-5333

Tompkins Tompkins County Task Force for Battered Women, Ithaca, 607/277-3203, 272-1616 (hotline)

Ulster Family of Woodstock, 914/679-2485 (24-hour)

Warren Domestic Violence Task Force, Glens Falls, 518/793-5888

Wayne Battered Women's Shelter of the Finger Lakes (Lyons Shelter), Walworth, 315/946-3341

Westchester Abused Spouse Assistance Service, White Plains, 914/997-1010
 Domestic Violence Program, County Dept. of Social Services, White Plains, 914/682-2554
 Domestic Violence Prosecution Unit, County District Attorney's Office, White Plains, 914/682-2127
 Northern Westchester Shelter, Inc., Bedford Hills, 914/764-4755
 Samaritan House, 914/948-3075
 The Shelter, Yonkers, 914/968-4347

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Salvation Army Shelter, Syracuse, 315/475-2156
 Vera House, Syracuse, 315/422-2271
 Victim-Witness Assistance Center, Syracuse, 315/425-2509
 YWCA Shelter, Syracuse, 315/422-9167

Ontario Family Counseling Services of the Finger Lakes, Geneva, 315/789-2613

Orange Domestic Violence Program, Middletown, 914/343-3750; after 5 pm: 914/368-4357

Orleans Orleans County Probation Department, Albion, 716/589-5538
 Sheriff's Department, 716/589-5527 (after 5 pm, and weekends)

Oswego Hotline, 315/342-1600
 Oswego County Council on Battered Women, Oswego, 315/343-2824, -9450

Otsego Aid to Battered Women, Oneonta, 607/432-2111

Putnam Putnam-North Westchester Women's Resource Center, Mahopac, 914/628-9284

Rensselaer Unity House, Families in Crisis Program, Troy, 518/272-2370

Rockland Volunteer Counseling Service of Rockland County, New City, 914/634-5729
 Center for Advocacy and Supportive Services, Spring Valley, 914/425-0112 (24-hour)
 Rockland Family Shelter, Nyack, 914/623-1112

St. Lawrence North Country Women's Center Shelter Project, Canton, 315/386-4130

Saratoga Economic Opportunity Council, Saratoga Springs, 518/587-3158

Schenectady Mary Hill Shelter, c/o YWCA Battered Women's Project, Schenectady, 518/374-3394

Schuyler Salvation Army, 607/732-0314
 Schuyler County Domestic Violence Task Force, Watkins Glen, 607/535-6673, -2832

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