

A Report of the Interagency Task Force on

Domestic Violence and Sexual Assault Prevention

State of Minnesota
January 2005

A Report from the Interagency Task Force on Domestic Violence and Sexual Assault Prevention

Prepared by:

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Office of Justice Programs

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Minnesota Office of Justice Programs

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MINNESOTA DEPARTMENT OF PUBLIC SAFETY



Office of Justice Programs

January 2005

Dear Governor Pawlenty and Members of the Minnesota Legislature:

In these strained economic times, domestic violence and sexual assault victim assistance programs are struggling to provide adequate services to victims. Likewise, law enforcement, prosecutors, probation officers and other criminal justice professionals with limited resources strive to do their work and fulfill their obligations to victims.

In the State of Minnesota, domestic violence happens daily and the tragedies of familial homicides and suicides continue to occur. Overall, violent crime has been decreasing on the national as well as the state level with the exception of Minnesota's rape rate which has been consistently higher than the national rate since 1993.

The victims of these crimes are in critical need of intervention and support, and victim assistance programs continue to provide these services throughout the state even though many are experiencing funding difficulties.

When the Legislature created the Interagency Task Force on Domestic Violence and Sexual Assault Prevention (IATF) in 2000, there was no funding provided to support its operation. The budget crisis of the past two years has resulted in financial constraints within the Office of Justice Programs division, and for this reason, the IATF has been unable to meet during 2004.

The Office of Justice Programs submits this report for your consideration. The report provides an overview of funding for victims of domestic violence and sexual assault victims, and a recommendation of no further budget cuts to crime victim services. Also included is a map of domestic violence and sexual assault programs and updated information about domestic violence and sexual assault in Minnesota.

Please consider the importance of victim assistance programs in our communities and victim needs throughout the state as you review this report and begin to address difficult budget issues in the year ahead.

Respectfully submitted,

A handwritten signature in blue ink that reads "Paula Weber".

Paula Weber
Director, Interagency Task Force
Crime Victim Justice Unit



Recommendation

2005 Legislative Session

The State of Minnesota will struggle with budget constraints and fiscal demands again this year as it tries to address the needs and concerns of its citizens. In recent years, state budget deficits have resulted in cutbacks in many government departments and local programs. One area that has experienced substantial funding reductions is crime victim services, and specifically, domestic violence and sexual assault programs.

As the state faces continuing budget concerns this year, it is essential to consider the detrimental effect further cuts to these organizations will have on programming and services

which, in turn, will adversely affect victims of crime and members of the criminal justice system.

The present level of funding is barely sufficient to support the organizations serving crime victim needs. Victims of domestic violence and sexual assault are in critical need of services and it is imperative that, at a minimum, programs sustain their current level of funding and services.

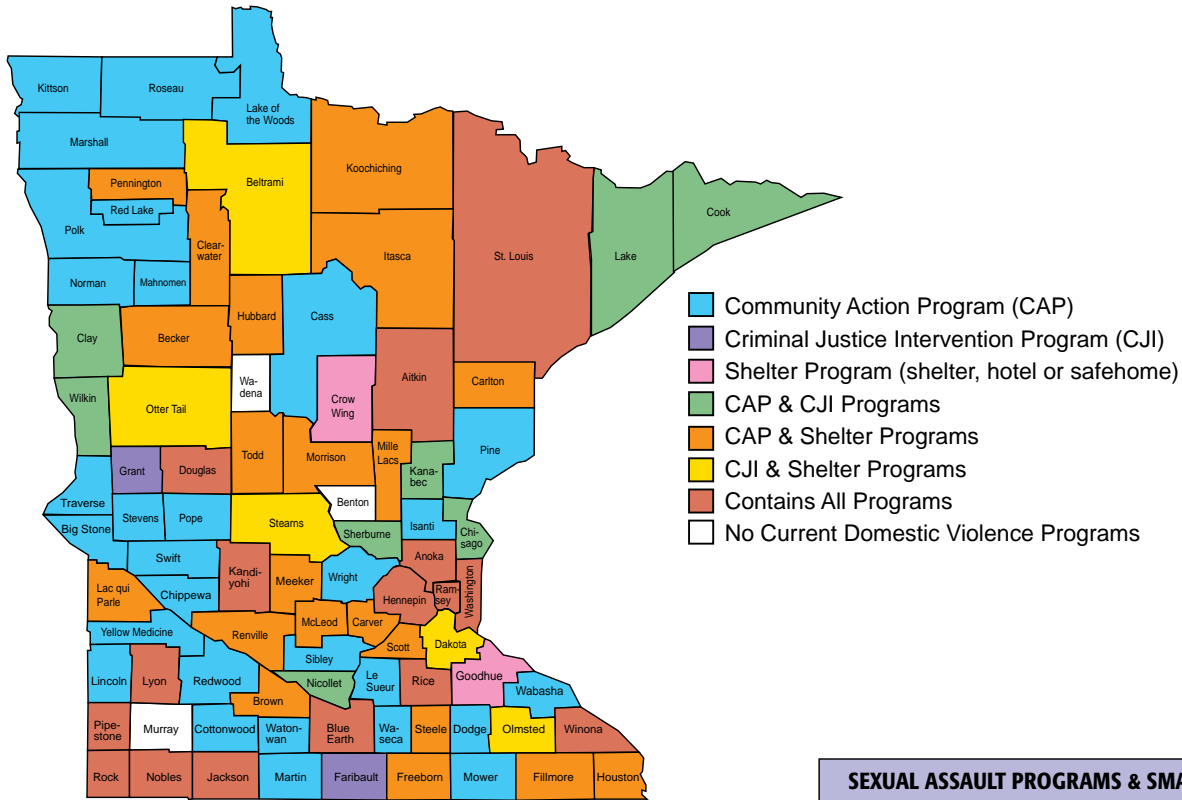
Therefore, we renew the recommendation made in the Interagency Task Force on Domestic Violence and Sexual Assault Prevention Reports of 2003 and 2004 that there be no further budget reductions to crime victim services.

Funding Sources and Amounts

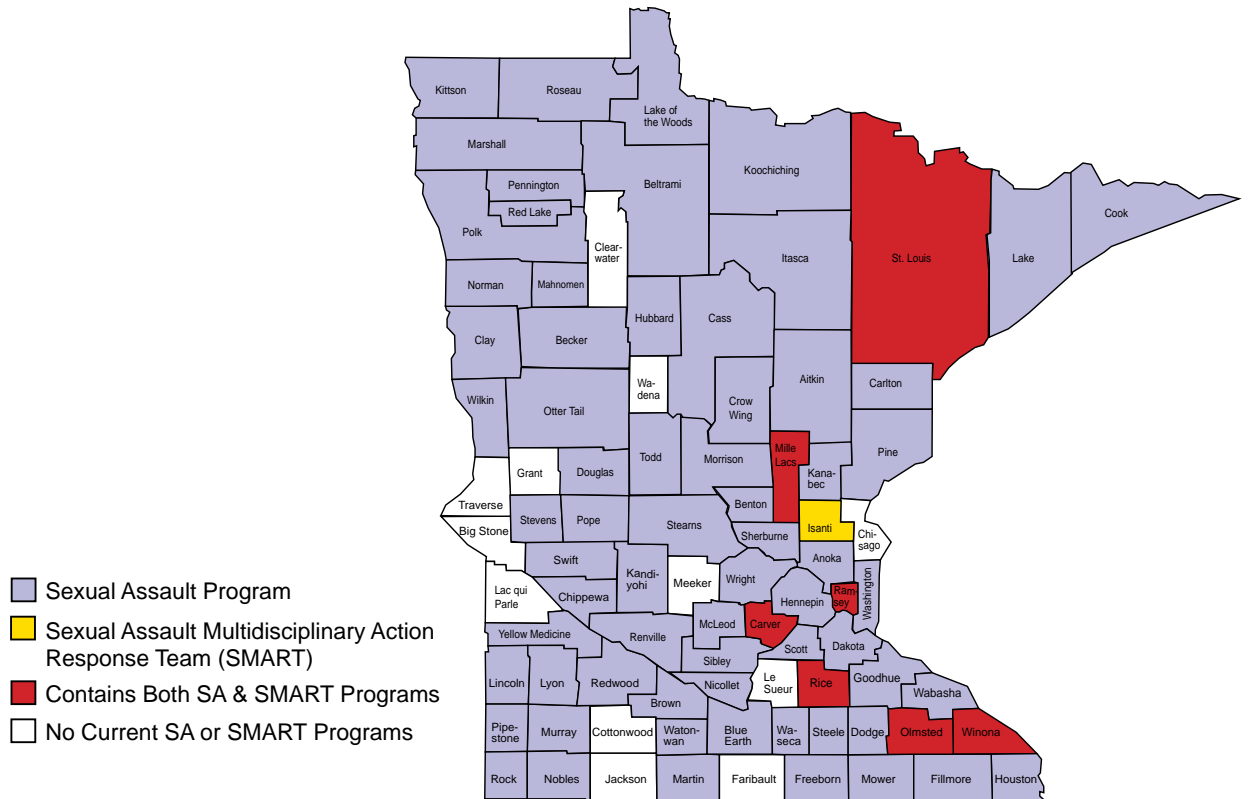
Battered Women's Services	2003	2004	2005
State General Fund Shelter Per Diem	\$18,379,000	\$15,595,000	\$15,379,000
State General Fund Grants	\$5,497,000	\$3,364,000	\$3,364,000
Federal Victims of Crime Act Funds	\$693,500	\$2,688,200	\$2,198,311
Federal Violence Prevention and Services Act Funds	\$1,555,848	\$1,555,848	\$1,565,752
Federal Violence Against Women Act Funds	\$988,000	\$1,373,080	\$1,026,500
Total	\$27,113,348	\$24,576,128	\$23,533,563
Sexual Assault Services			
State General Fund Grants	\$2,087,000	\$1,052,000	\$1,052,000
Federal Victims of Crime Act Funds	\$1,098,712	\$1,454,398	\$1,501,027
Federal Violence Against Women Act Funds	\$1,143,000	\$875,168	\$1,026,500
Federal Prevention and Personal Health Care Block Grant Funds	\$130,936	\$120,468	\$120,468
Total	\$4,459,648	\$3,502,034	\$3,699,995

Maps of Services

DOMESTIC VIOLENCE PROGRAMS



SEXUAL ASSAULT PROGRAMS & SMART PROJECTS



Domestic Violence

Domestic Violence

The federal Office for Victims of Crime defines domestic violence as a pattern of coercive behavior designed to exert power and control over a person in an intimate relationship through the use of intimidating, threatening, harmful, or harassing behavior.¹ It can be sexual, physical, or emotional abuse.

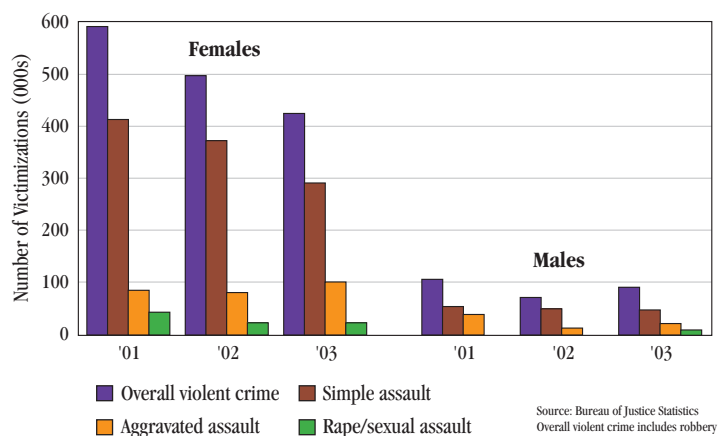
Domestic Violence in the United States

The National Crime Victimization Survey collects data annually on crimes against persons age 12 and older, reported or not reported to the police, from a nationally representative sample of U.S. households.²

In 2003, it was estimated that there were more than 521,000 non-fatal violent victimizations committed by intimate partners in America;³ of these, 84 percent were against women.⁴

From 2001-03, overall violent crime by intimate partners decreased by 25 percent, but rape/sexual assault fell by more than 33 percent. Aggravated assault increased slightly.

Violence by Intimate Partners by Type of Crime and Gender in the U.S. 2001–2003



In 2003, domestic violence made up 19 percent of all non-fatal violent crime victimizations experienced by women, and 3 percent experienced by men.

In 2002, 1,202 females and 388 men were murdered by an intimate partner.⁵ Homicide by intimates has declined since 1993, especially for male victims. About one-third of all female murder victims and 3 percent of all male murder victims were killed by an intimate.⁶

Who are Victims of Domestic Violence?

In 2003, a national study found that economic status is an important factor in intimate partner violence.⁷ Intimate partner violence was more prevalent and more severe in disadvantaged neighborhoods and in households facing economic distress. Economic distress, in the form of unemployment or not having enough money to meet family needs, increased the risk of intimate partner violence against women. This study compared women from advantaged neighborhoods to those living in disadvantaged neighborhoods. The results revealed that women living in disadvantaged neighborhoods were:

- More than twice as likely to be victims of intimate partner violence.
- Three times as likely to be victims of severe violence (2 percent compared to 6 percent).
- More likely to be victimized repeatedly or to be injured by their domestic partners.

African-Americans and whites with similar economic circumstances had similar rates of intimate partner violence. There was a higher rate of intimate partner violence among African-Americans because a higher proportion lived in disadvantaged neighborhoods and were under economic distress.⁸

The Costs of Intimate Partner Violence

In 2003, the Center for Disease Control and Prevention reported that health-related costs of intimate partner violence (includes rape, physical assault, stalking and

Domestic Violence

homicide)⁹ exceeded \$5.8 billion each year in the United States. Of this total, nearly \$4.1 billion are direct medical and mental health care services and \$1.8 billion are productivity losses.¹⁰ Only about 30 percent of those injured sought medical attention for their injuries.¹¹

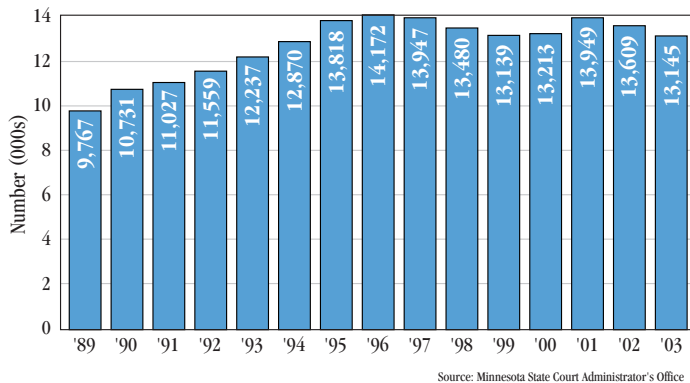
Domestic Violence in Minnesota

In 2003, at least 13 women and 10 children were murdered in Minnesota as the result of domestic violence.¹²

Civil and Criminal Court Case Filings

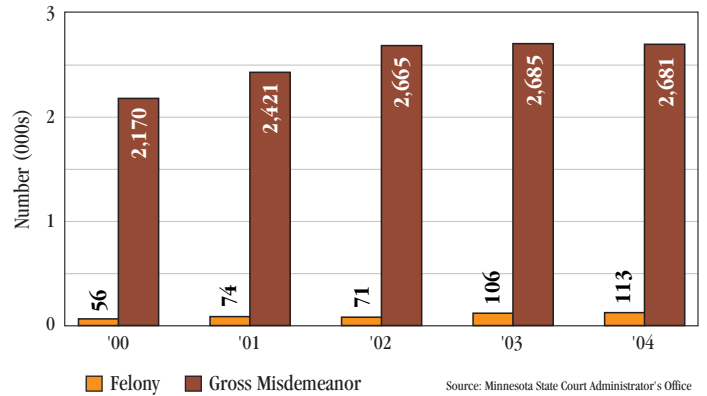
Orders for protection are court orders which are granted to protect individuals from domestic violence. Order for protection filings in Minnesota were highest in 1996 at 14,172 and decreased to 13,145 in 2003.¹³

Domestic Abuse Order for Protection Filings in Minnesota 1989–2003



In Minnesota, domestic assault criminal cases charged at the felony level have increased from 1999 to 2004. Each year more cases are charged as gross misdemeanors than felonies.¹⁴

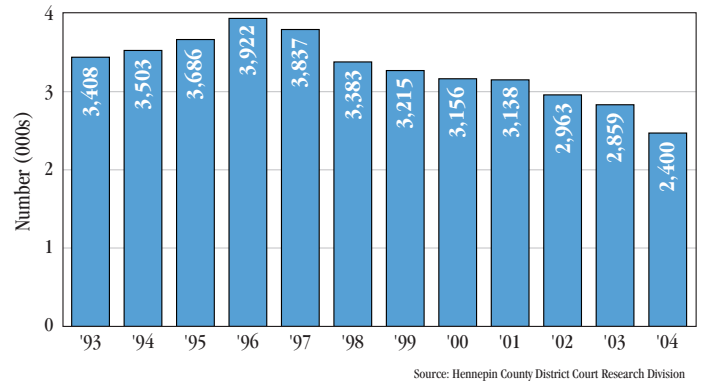
Minnesota Cases with Domestic Assault Charges FY 2000–2004



Domestic Violence in Hennepin County

In the state's largest county, Hennepin, domestic abuse order for protection filings were highest at 3,922 in 1996. Since then, the number of domestic abuse order for protection filings has decreased each year to 2,400 in fiscal year 2004.¹⁵

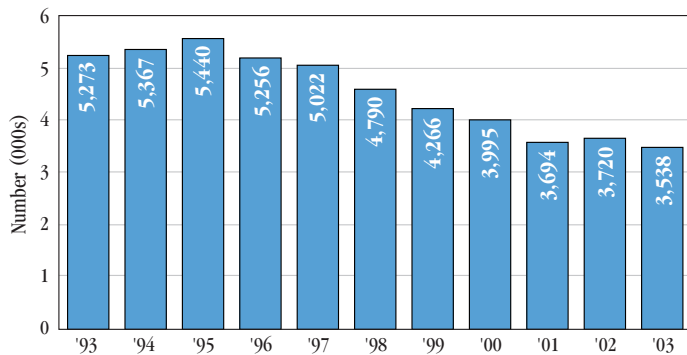
Domestic Abuse Order for Protection Filings in Hennepin County 1993–2004



Domestic Violence

In Hennepin County, misdemeanor domestic assault filings decreased by one-third from 1995 to 2004.

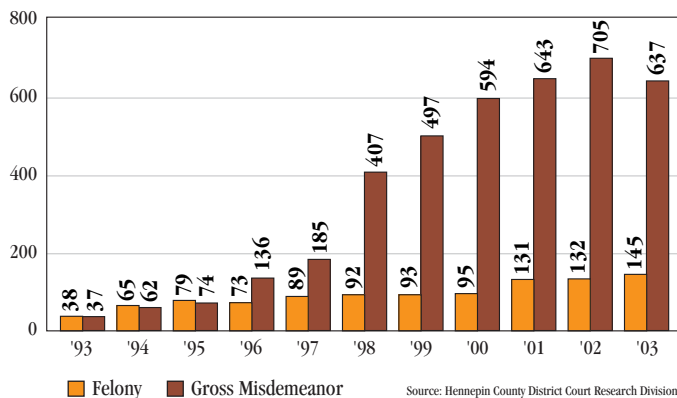
Misdemeanor Domestic Assault Filings in Hennepin County 1993–2004



Source: Hennepin County District Court Research Division

In Hennepin County, felony domestic assault filings increased steadily from 1993 to 2003, but gross misdemeanor domestic assault filings increased from 1993 to 2002 and then decreased in 2003. After 1997, there were four times as many gross misdemeanor domestic assault filings as felony domestic filings.

Felony and Gross Misdemeanor Domestic Assault Filings in Hennepin County 1993–2003



Source: Hennepin County District Court Research Division

Domestic Violence in Minneapolis

In 2003, the Minneapolis Police Department received 17,851 emergency domestic calls, and the number has been decreasing since 2001. In 2003, there were 3,100 reported cases of domestic assault; of these, 1,826 resulted in an arrest.¹⁶

Reported Domestic Violence in Minneapolis

	2001	2002	2003
911 DC*	19,701	19,031	17,851
911 DC with a Weapon	465	426	440
DA** Reports	5,111	4,652	3,100
DA Arrests	2,571	2,368	1,826
DA Gone on Arrival	2,540	2,284	1,747

* Domestic Calls, ** Domestic Assault
Source: Minneapolis Police Department

Domestic Abuse Project

The Domestic Abuse Project located in Minneapolis conducted a study of 263 women who were victims of intimate partner violence in 2002-03. Some of the important findings were:¹⁷

- Nearly three-quarters of the victims had called the police about the abuse.
- Nearly one-third of victims filed charges.
- One-third reported frequent or very frequent physical abuse.
- One-third sought medical services because of the abuse.
- One-third were prevented by the abuser from seeking medical services for their injuries.

Minnesota Hospital Data

In 2003, 1,096 Minnesotans received emergency department or inpatient hospital care for domestic violence related injuries. Ninety-five percent of the victims were women and those in the age ranges 20-24 and 30-34 had the most injuries of all age groups.

More than 95 percent of the domestic violence victims who went to the hospital were treated in the emergency department at a median charge of \$574. The remaining victims were treated as inpatients at median charges of \$7,720.¹⁸

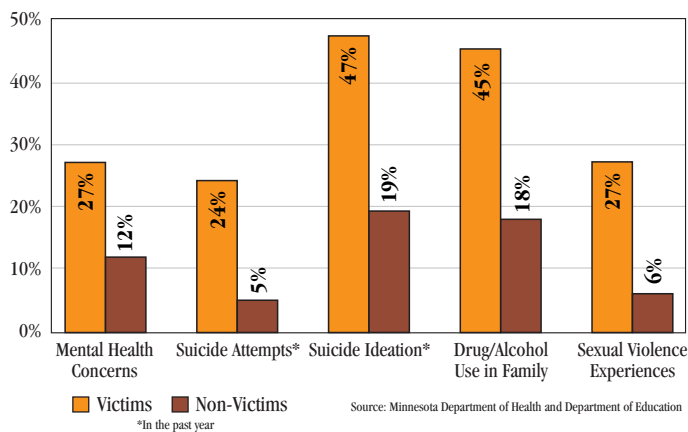
Domestic Violence

Minnesota Student Survey Data

The Minnesota Department of Education, in collaboration with other state agencies, conducts a survey every three years among 6th, 9th, and 12th graders in public schools throughout the state. The survey asks youth about their behavior, activities, and attitudes towards substance abuse, violence, and sexual activity.¹⁹

Among 9th graders, 11 percent reported that they had been physically abused by an adult living in the household. These victims reported being greatly affected in terms of their mental and physical health and additional victimizations.²⁰

Effects of Domestic Abuse on 9th Graders, Minnesota Student Survey 2001



Wilder Foundation Homeless Study

Results from a Wilder Foundation study found:

- The most common reason women sought shelter was to flee an abusive partner.
- In 2003, nearly one in three homeless women was homeless because of domestic abuse.
- Nearly half of homeless women reported that they stayed in an abusive relationship because they had nowhere else to live.
- An association exists between homelessness and abuse as children; 42 percent of homeless adult women reported that they were mistreated as children.²¹

Victim Programs in Minnesota

In fiscal year 2004, there were 81 domestic violence programs. Battered women in Minnesota spent nearly 99,000 nights and children spent nearly 116,000 nights in safe shelter in fiscal year 2004.²²

In Community Advocacy Programs (CAP), almost 25,000 victims were served in the same time period. In CAP, the majority of victims served were between the ages of 30 and 44 followed by ages 18 and 29. Most (56.3 percent) CAP victims were white, followed by 17.7 percent African-Americans, 8.3 percent Latina, 5.9 percent immigrants/refugees and 5.8 percent Native Americans.

¹ National Victim Academy Textbook, Office of Victims of Crime, Chapter 9.

² Bureau of Justice Statistics, *National Crime Victimization Survey, 1995-2000*, December 2003. The NCVS is the source of national data for this report.

³ Includes rape/sexual assault, robbery, aggravated assault and simple assault.

⁴ Bureau of Justice Statistics, *Criminal Victimization, 2003*.

⁵ FBI, *Supplementary Homicide Reports, 1976-2002*.

⁶ Bureau of Justice Statistics.

⁷ National Institute of Justice, *When Violence Hits Home: How Economics and Neighborhood Play a Role*. September 2004.

⁸ Ibid.

⁹ Department of Health and Human Services, Center for Disease Control and Prevention, *Costs of Intimate Partner Violence Against Women in the United States*, March 2003.

¹⁰ Ibid.

¹¹ Ibid.

¹² Minnesota Coalition for Battered Women *2003 Femicide Report*.

¹³ Minnesota State Court Administrator's Office, October 2004.

¹⁴ Ibid. Domestic assault cases may also be charged as misdemeanors.

¹⁵ Hennepin County District Court Research Division, October 2004.

¹⁶ Minneapolis Police Department, CODE FOR Unit, October 2004.

¹⁷ Dosanjh, S., *Violence Against Women Health Research Collaborative*, Minnesota Domestic Abuse Project, 2004.

¹⁸ Minnesota Department of Health, Violence and Prevention Unit, October 2004.

¹⁹ Minnesota Department of Education and Minnesota Department of Health, Injury and Violence Prevention Unit, *Minnesota Student Survey, 2001*.

²⁰ Ibid.

²¹ Wilder Research Center, *Homeless in Minnesota 2003*.

²² Minnesota Department of Public Safety, Office of Justice Programs, Crime Victims Services, Grants Administration.

Rape/Sexual Assault

Rape/Sexual Assault

Rape is generally defined as nonconsensual sexual penetration perpetrated through physical or psychological force, or threat of bodily harm.

Sexual assault is the use of sexual actions and words that are unwanted by and/or harmful to another person. Some common terms that are used interchangeably with sexual assault are sexual abuse and sexual violence.¹

Sexual Assault in the United States

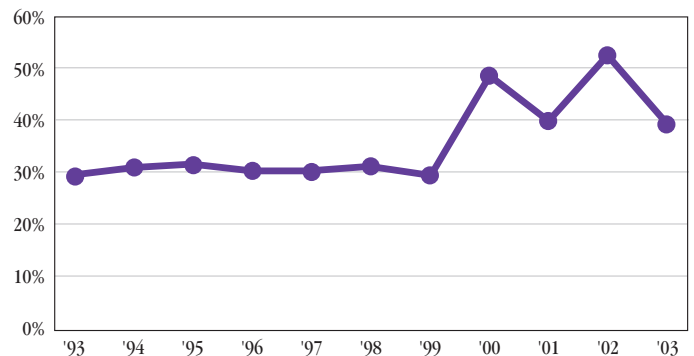
In 2003, according to the National Crime Victimization Survey (NCVS), there were an estimated 198,850 rape victimizations, attempted rapes, or sexual assaults in America, a decrease of nearly 20 percent from 2002.²

In 2003, it was estimated that:

- A forcible rape was committed every 5.6 minutes in America.³
- 38.5 percent of sexual assault victims reported the crime to the police in 2003 (a decrease from 2002.)⁴
- In 84 percent of the rape/sexual assault cases, no weapons were involved.⁵

The rape/sexual assault victimization rate in 2003 in the United States was .8 per 1,000 persons age 12 or older, a 27 percent drop from 2002 and a 68 percent decrease from 1993.⁶

Percentage of Rapes and Sexual Assaults Reported to Police from 1993–2003 for the U.S.



Source: Bureau of Justice Statistics, National Crime Victimization Survey

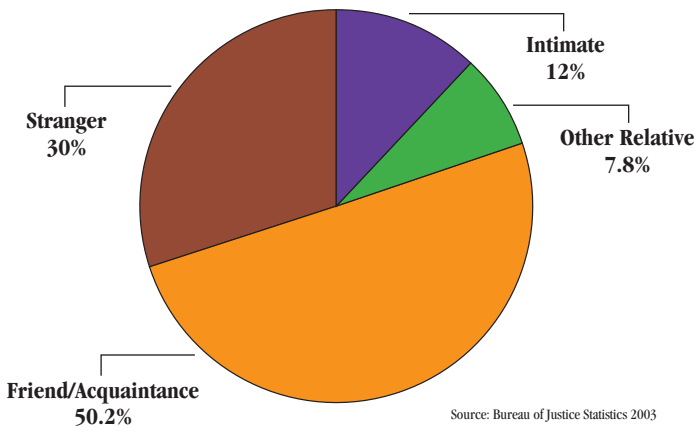
Who are Victims of Sexual Assault?

According to the 2003 NCVS:

- 90 percent of rape/sexual assault victimizations are against women.⁷
- Persons age 20-24 had the highest rates of rape/sexual assault victimization of all age groups, followed by adults age 25-34.⁸
- Rape/sexual assault is inversely related to household income; the highest rates were found in households with incomes less than \$15,000, and the lowest were found in households with incomes over \$50,000.⁹
- Persons from Midwest states had the highest rape/sexual assault victimization rates and persons from Northeast states had the lowest victimization rates.¹⁰
- Single persons (never married, divorced or separated) were more likely to be victimized than married or widowed persons.¹¹
- Nearly 70 percent of victims knew their attackers.¹²

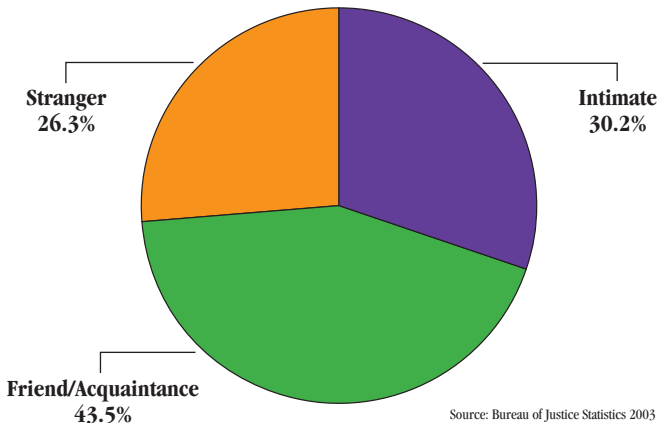
Rape/Sexual Assault

Rape/Sexual Assault Victim and Offender Relationship for Female Victims in the U.S. 2003



Both male and female victims were most likely to be victimized by a friend or acquaintance.¹³

Rape/Sexual Assault Victim and Offender Relationship for Male Victims in the U.S. 2003



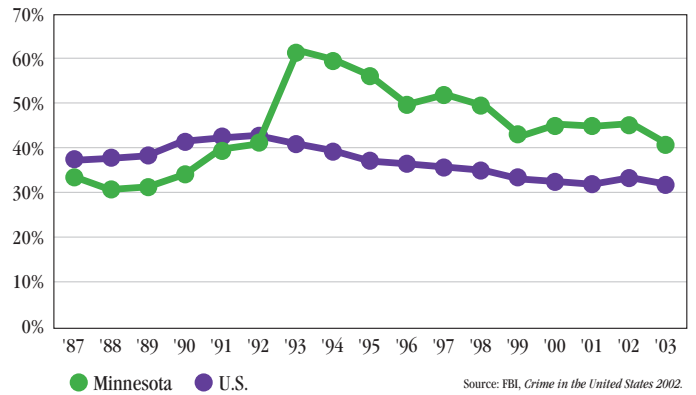
Sexual Assault in Minnesota

There were 6,255 reported sexual assaults in Minnesota in 2003, of which 2,387 were forcible or attempted rapes. Half of the rape cases were cleared by arrest, up from 48 percent in 2002.¹⁴

In 2003, there were six rapes per day or one every four hours in Minnesota.¹⁵

From 1987 to 1992, Minnesota's rape rate was below the nation's, but since 1993, Minnesota's rate has been higher.¹⁶

Forcible Rape Rate per 100,000 Persons for the U.S. and Minnesota from 1987–2003



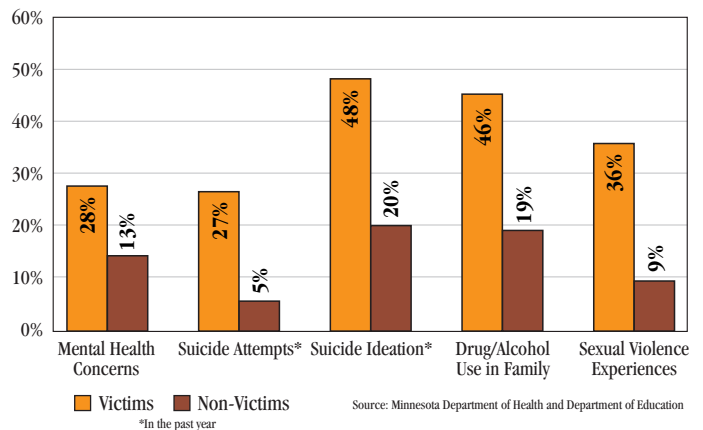
Student Survey Results

Minnesota Department of Education

The Minnesota Department of Education conducts the *Minnesota Student Survey* every three years among 6th, 9th, and 12th graders throughout the state. It asks youth about their behavior, activities, and attitudes towards substance abuse, violence, and sexual activity.¹⁷

Among 9th graders, 9 percent reported that they had been victims of sexual violence.¹⁸ These students reported that these victimizations greatly affected them in terms of their mental and physical health and additional victimizations.¹⁹

Effects of Sexual Violence on 9th Graders, Minnesota Student Survey 2001



Rape/Sexual Assault

Among 9th and 12th graders, 11 percent reported that they had been a victim of date rape or sexual abuse in their lifetimes. Females were twice as likely to be victims of date rape and sexual abuse than males. These victims also reported increased mental and physical health concerns.

University of Minnesota

The 2003 Student Health and Safety Survey was conducted at the University of Minnesota during spring 2003. A total of 2,565 surveys were collected on the Twin Cities campus among mostly 18-24 year-old students. Major findings include:

- 2.5 percent of females and .5 percent of males had been raped in the past academic year.
 - 5.2 percent of females and 2.2 percent of males had experienced non-rape sexual assault in the past academic year.
- 13.8 percent of females and 2.5 percent of males had been raped in their lifetimes.
 - 26 percent of females and 6.9 percent of males had experienced non-rape sexual assault in their lifetimes.²⁰

Victim Programs in Minnesota

In fiscal year 2004, there were 61 programs for victims of sexual assault in Minnesota. These programs served 6,080 victims. Victims were most likely to be ages 18 to 29 (33.6 percent) followed by ages 13 to 17 (24 percent). The victims were most likely to be white (67.5 percent), followed by 9.5 percent immigrant/refugee, 6.8 percent African-Americans, 6.4 percent Native Americans, and 4.1 percent Latina.²¹

¹ Minnesota Department of Health.
[www.health.state.mn.us/injury/pub/kit/basic what's.pdf](http://www.health.state.mn.us/injury/pub/kit/basic%20what's.pdf)

² Bureau of Justice Statistics, National Crime Victimization Survey, *Criminal Victimization, 2003*.

³ FBI, *Crime in the United States, 2003*.

⁴ Ibid.

⁵ Ibid.

⁶ Bureau of Justice Statistics, National Crime Victimization Survey, *Criminal Victimization, 2003*.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Bureau of Criminal Apprehension, *Minnesota Crime Information, 2003*.

¹⁵ Minnesota Department of Public Safety, Bureau of Criminal Apprehension, 2003.

¹⁶ FBI, *Crime in the United States 2003*.

¹⁷ Minnesota Department of Education and Minnesota Department of Health, Injury and Violence Prevention Unit, *Minnesota Student Survey, 2001*.

¹⁸ Victims of date rape, sexually abused by non-family adult or family member.

¹⁹ Minnesota Department of Education and Minnesota Department of Health, Injury and Violence Prevention Unit, *Minnesota Student Survey, 2001*.

²⁰ Roberta Gibbons, Aurora Center for Advocacy and Education, University of Minnesota, October 2004.

²¹ Minnesota Department of Public Safety, Office of Justice Programs, Crime Victims Services, Grants Administration.



Minnesota Office of Justice Programs

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Homicides of Women and Children in Minnesota: A Closer Look at the MCBW Femicide Report

Suzanne Elwell, WATCH

Every year since 1989, the Minnesota Coalition for Battered Women has produced the *Femicide Report*, detailing the violent deaths of women and children in Minnesota, primarily at the hands of current or former partners or trusted caretakers.¹ MCBW gathers its data from members across the state who provide media reports of local homicides.² Along with the raw numbers, the report provides the brief but always heart-wrenching story of each life lost and each family shattered. And it serves to remind us that domestic and family violence homicides happen with alarming regularity in our state.

WATCH decided to investigate further those cases that took place in Hennepin County from 2000 to 2003 to find out if the perpetrators had prior contact with the criminal justice system, if they were on probation, and if there were opportunities for intervention prior to the homicide. This article summarizes information regarding these cases detailed in MCBW's *Femicide Report* and analyzes, in particular, the Hennepin County Cases.

Minnesota Femicide Statistics

The *Femicide Report* lists all homicides in Minnesota in which a woman or a child is a victim, including death at the hands of an intimate partner, family member, caregiver, or stranger.³

Relationship

Consistent with national research, the *Femicide Report* shows that women are primarily killed by people they know, and most likely by a current or former intimate partner.⁴ In 87% of the Minnesota cases examined, the victim was related to or knew the perpetrator. The majority of the violence in the *Femicide Report* is "intimate partner violence" (IPV). IPV is generally defined as violence committed against someone with whom one has, or has had, an intimate relationship, such as a current or former spouse, partner, or boy/girlfriend. Of all the cases in Minnesota from 2000 to 2003, 49% were IPV homicides. (See Chart 1 on page 7.)

In addition to the clear IPV homicides, a number of other victims were friends, neighbors, or relatives of the perpetrator's current or former partner. For example, in a 2003 case, a man shot and killed his girlfriend's neighbor as he was attempting to kill his girlfriend and her children. In a 2001 case, a man shot at his estranged wife and her friend, killing the friend and injuring his wife. Although not techni-

cally IPV homicides, they can be classified as "secondary" IPV cases because the incident stemmed from the perpetrator's relationship and motivation toward his intimate partner. When added to the other IPV cases, the total percentage of *Femicide Report* cases related to intimate partner violence statewide is 55%.

Firearms are the weapons of choice

Women and children are most likely to be killed by a gunshot than by any other method. Forty-three percent of all incidents described in the *Femicide Report* involved a firearm. (See Chart 2 on page 7.) Moreover, in looking at just the IPV homicides, that rate is even higher—51% of all IPV homicides involved a firearm.⁵

Murder-suicides

One of the most alarming aspects of IPV homicides is the high rate at which perpetrators kill themselves. In a third of all IPV homicides in Minnesota, the perpetrator committed suicide and, in another 4%, the perpetrator attempted suicide.

Of all the Minnesota homicides described in the *Femicide Report*, 23% of perpetrators committed suicide, with another 6% making an attempt. Moreover, in 71% of all the cases in which the perpetrator committed or attempted suicide, the method used to kill the victim was a firearm.⁶

Hennepin County femicide statistics

In the four-year period spanning 2000 to 2003, 53 women and children were killed in Hennepin County. The victim was an intimate partner of the perpetrator in 20 (41%) of the homicides; in another 6 (12%), the victim was in some way connected to the intimate partner. Sixty-one percent of the homicides occurred in Minneapolis, with the remaining homicides occurring in 16 other cities in Hennepin County.

Many of the perpetrators of homicides in Hennepin County were not strangers to the criminal justice system: 71% had criminal histories, with offenses ranging from minor traffic violations to criminal sexual misconduct. Fifty-one percent of those perpetrators with criminal histories in Hennepin County had a charge involving violence against a person (sexual misconduct, domestic violence, assault, or child abuse). Of the 20 IPV homicide cases in Hennepin County, eight (40%) of the per-

petrators had some time of domestic violence charge against them, and three of those perpetrators had cases still pending when they murdered their intimate partner.⁷

Conclusion

WATCH has often noted with irony that the impetus for forming WATCH was the rape and murder of a Minneapolis woman at the hands of a stranger, when in fact, women are much more likely to suffer harm at the hands of someone they know. As the results of this analysis make clear, intimate partner violence is the primary basis for the homicide of women, guns are weapon of choice, and, in Hennepin County at least, there's a good chance the perpetrator has seen the inside of the courthouse before committing homicide.

While we can be grateful that overall the homicide trend in Minnesota has been downward in recent years, a single read of the annual *Femicide Report* is enough to spur us on to continue to work on violence prevention efforts, to look for opportunities for intervention in the criminal justice process, and to aspire to a justice system that truly is an instrument for homicide prevention.

⁷The *Femicide Reports* from 1989 to 2003 are available at the MCBW web site: www.mcbw.org.

²This method is admittedly not the most desirable strategy, and MCBW is quick to point out that its figures represent a minimum number of deaths of women and children.

³The *Femicide Report*, by definition and practice, does not include male victims of intimate partner violence.

WATCH's monitoring experience is in line with the national research that shows that male victims of IPV homicides are relatively rare in comparison to female victims. In the past three years, WATCH can identify only three instances in which a woman killed her male intimate partner. In one of those cases, the perpetrator was found to have acted in self-defense and was not charged; in the two others there was some indication that the defendant was a battered woman.

⁴Homicide trends in the U.S.: Intimate homicide and homicides by relationship and weapon type. Washington D.C.: U.S. Department of Justice, Bureau of Justice Statistics; 2002.

⁵The Minnesota Department of Health has similar findings: of the 31 people murdered by an intimate partner in 2000, 65% of those deaths involved a firearm. Minnesota Department of Health, Injury and Violence Prevention Unit, Intimate Partner Violence: 1998 to 2001, Violence Data Brief (November 2002, No. 1).

⁶Three-fourths of all firearm deaths in Minnesota from 1998 to 2001 were due to suicide. The Minnesota Department of Health, Injury and Violence Prevention Unit, Firearm-Related Injury: Minnesota 1998-2001 (May 2004, No. 3).

⁷It is important to keep in mind that the *Femicide Report* tracks only completed homicides. There are many other incidents of attempted homicides in which the victim survives.

Suzanne Elwell is the former Executive Director of WATCH, a volunteer-based court monitoring and research organization that follows cases of family and sexual violence and provides feedback to the justice system in Hennepin County. This article is reprinted with the gracious permission of WATCH.

Homicides: Intimate Partner Violence, Child Maltreatment, and Other Family Violence for All of Minnesota

Suzanne Elwell, WATCH

Chart 1: Category of homicide focusing on primary victim

Description/type	Other counties	Hennepin	Total MN	%	% of total known
Intimate partner violence	56	20	76	46%	49%
Secondary IPV*	4	6	10	6%	6%
Child maltreatment**	22	6	28	17%	18%
Other family violence***	12	1	13	8%	8%
Sexual violence	4	3	7	4%	5%
Acquaintance	7	4	11	7%	7%
Stranger to victim	3	6	9	5%	5%
Perpetrator unknown	7	3	10	6%	
Total	115	49	164	100%	100%

Chart 2

Method	Other counties	Hennepin	Total MN	%	% of total known
Firearm	46	16	62	38%	43%
Knife/cutting instrument	18	15	33	20%	23%
Strangulation	9	1	10	6%	7%
Hands/feet	13	5	17	10%	12%
Object	3	4	7	4%	5%
Other	13	3	16	10%	11%
Unknown	14	5	19	12%	
Total	115	49	164	100%	100%

Chart 3

Method used: IPV cases only*	Other counties	% of known	Hennepin	% of known	% of MN known
Firearm	29	56%	7	37%	51%
Knife/cutting instrument	8	15%	9	47%	24%
Strangulation	6	12%	0	0%	8%
Hands/feet	2	4%	0	0%	3%
Object	2	4%	2	11%	6%
Other	5	10%	1	5%	8%
Unknown	4		1		
Total	56	100%	20	100%	100%

*Victim is connected in some way to intimate partner of perpetrator. **Death as a result of maltreatment by parent or caregiver.
 ***Includes parents killing adult children.

- Women, Belle Plaine
- Southwest Crisis Center, Worthington/Jackson/Luverne/Pipestone/Windom
- Speak Out Sisters, Minneapolis
- St. Paul Domestic Abuse Intervention Project, St. Paul
- Turningpoint for Victims of Domestic & Sexual Violence, River Falls, WI
- Violence Intervention Project, Thief River Falls
- Violence Prevention Center, Grand Marais
- WATCH, Minneapolis
- WINDOW, Hinckley
- Women of Nations, St. Paul
- Women's Resource Center of Winona, Winona
- Women's Rural Advocacy Project, Granite Falls/Ivanhoe/Marshall/Redwood Falls

What YOU can do to end domestic violence. . .

We need your help to end domestic violence!

- Contact your State legislators to let them know that ending domestic violence and supporting increased funding for programs that serve battered women are a priority for you. MCBW can help you find out who your legislators are and how to contact them.
- Write a Letter to the Editor of your local paper about the above.
- Volunteer for us. We can always use help with projects around our office.
- Volunteer for the battered women's program closest to you. Give us a call and we can give you resources.
- If you're a student, consider doing an internship with MCBW.
- Donate clothes and household goods in useable condition to the battered women's program nearest you.
- If a friend or a family member is being battered, or you suspect she is being battered, contact your nearest battered women's program to discuss how you can help her in the safest way possible.
- Donate to your local battered women's program. Most operate with shoestring budgets and have suffered funding cuts in the last few years.
- Donate to MCBW so that we can lead the state in the fight to end the epidemic of domestic violence. All donations are tax-deductible.

Minnesota Coalition for Battered Women Mission

The mission of the Minnesota Coalition for Battered Women is to provide a voice for battered women and member programs; challenge systems and institutions so they respond more effectively to the needs of battered women and their children; promote social change; and support, educate, and connect member programs.

We are a statewide membership organization that includes individuals and local, regional, and statewide organizations advocating on behalf of battered women and their children.

Minnesota Coalition for Battered Women

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Member



Community
Solutions Fund

Minnesota Coalition for Battered Women



*Envisioning a
world without
violence against
women and
children and with
social justice for
all...*

What MCBW Is Working On...

- Providing technical assistance to programs providing service to battered woman.
- Providing regular informational mailings to members.
- Providing training on domestic violence topics statewide and nationally.
- Providing public policy and legislative advocacy to end domestic violence.
- Producing a quarterly newsletter and the MCBW web site.
- Serving as an informational clearinghouse.
- Maintaining and displaying the Clothesline Project throughout the state to raise public awareness about violence against women and children.
- Updating and releasing the annual Femicide Report.
- Updating and developing educational and training materials.
- Providing leadership for grassroots efforts to end violence against women and children.
- Providing staff support to statewide networks such as the Women of Color and Native American Women Network, the Lesbian, Gay, Transgender, Bisexual and Allies Network, the Legislative Advisory Committee, and the Youth and Children's Advocacy Network.
- Working with the MN Chippewa

Tribe, Gender Violence Institute, the MN Indian Women's Sexual Assault Coalition, and Community Resource Alliance to strengthen collaborative efforts of the criminal justice system and advocacy programs.

- Creating a public awareness campaign geared towards youth of color and immigrant/refugee youth.

Our Member Programs...

- ABC Crisis Nursery, Red Wing
- AdvoCare, St. Louis Park
- Advocates Against Domestic Abuse, Aitkin
- Advocates for Family Peace, Grand Rapids
- Asian Women United of MN/House of Peace Shelter, St. Paul
- The Aurora Center, U of M, Minneapolis
- Bois Forte Victim Service Unit, Nett Lake
- Breaking Free, St. Paul
- Brown County Victim Services, New Ulm
- Battered Women's Justice Project, Minneapolis
- Battered Women's Legal Advocacy Project, Minneapolis
- Carlton Co. Sexual & Domestic Abuse Program (RWA), Carlton
- Centro Legal, St. Paul
- Community Violence Intervention Center, Grand Forks, ND
- Community Violence Prevention Institute, St. Paul
- Crime Victim Resource Center, Austin
- Crisis Resource Center, Baudette
- Crisis Resource Center of Steele Co., Owatonna
- CSD-MN Domestic Violence Program, St. Paul
- Dabinoo'Igan, Duluth
- Equay Wiigamig, Red Lake
- Fairview WomanKind, Burnsville/Edina/Minneapolis
- Family and Children's Services, Minneapolis
- Fillmore Family Resources, Preston
- Friends Against Abuse, International Falls
- Gender Violence Institute, Clearwater
- Hands of Hope, Little Falls/Long Prairie
- Headwaters Intervention Center, Park Rapids/Bagley
- Hennepin Co. Domestic Abuse Service Center,

- Minneapolis
- Home Free, Plymouth
- Hope Center, Faribault
- Houston Co. Women's Resources, Hokah
- Immigrant Women's Advocacy Project, Minneapolis
- Korean Family Enrichment Program, Minneapolis
- Lakes Crisis and Resource Center, Detroit Lakes
- Le Suer Co. Victim/Witness Program, Le Center
- Lighthouse Program, Waconia/Shakopee
- Listening Ear Crisis Center, Alexandria/Fergus Falls
- Mahnommen Co. Victim Resource Program, Mahnommen
- Mayo Clinic Social Services, Rochester
- Migrant Health Services, Crookston
- Mille Lacs Band Women's Project, McGregor
- Minnesota Coalition for the Homeless, Minneapolis
- Minnesota Network on Abuse in Later Life, Roseville
- Minnesota Program Development, Duluth
- North Shore Horizons, Two Harbors
- Northwoods Coalition, Bemidji
- OutFront Minnesota, Minneapolis
- Pearl Battered Women's Resource Center, Milaca
- Praxis International, Duluth/St. Paul
- Project P.E.A.C.E., Brooklyn Center
- Rape & Abuse Crisis Center of Fargo-Moorhead, Fargo, ND
- Range Women's Advocates, Virginia
- Red Wing Area Coalition for Transitional Housing, Red Wing
- Refugee Network, Cambridge/Chisago City/Mora
- Rivers of Hope, Monticello
- Roseau Co. Outreach, Roseau
- Safe Haven Shelter, Duluth
- Safe Journey, Robbinsdale
- Shelter House, Willmar/Benson/Montevideo/Olivia
- Sojourner Project, Hopkins
- Someplace Safe, Fergus Falls/Breckenridge/Glenwood/Morris/Ortonville/Perham/Wheaton
- Southern Minnesota Regional Legal Services, St. Paul
- Southern Valley Alliance for Battered

From the October 5, 2004 St. Paul Pioneer-Press:

Communities and courts must work together to protect women, children

CYNDI COOK DENISE GAMACHE

It is indeed a sad day when the murder of a child is misguidedly portrayed as an example of problems with custody, visitation and child support. This is the case with the recent coverage of the murder of 5-year-old Mikayla Tester-Olson, whose father, John Tester, shot her, killed himself and left mother Leigh Ann Olson with a life sentence of sorrow.

The murder of a child leaves our community reeling with questions about how this tragedy could happen and what could have prevented it. The answers in the media would have us believe that this murder-suicide was the outcome of a punitive system that restricted a loving father's visitation and demanded child support he could not afford. The public records tell a different story.

In reality, while Mikayla's mother was granted sole physical custody, Tester shared joint legal custody and the parenting time arrangement granted him nearly half-time visitation. Most parents with similar arrangements maintain loving relationships with their children. This was not the case with Tester. Instead of devoting time to parenting Mikayla, Tester devoted his time to abusing and harassing his ex-wife. When Olson and her family are able to speak about their pain, perhaps our community will gain more insight into this terrible story. But for now, let us view the public record.

In March 2000, Tester was arrested for domestic assault and interfering with the 9-1-1 call when Olson tried to get help. In January 2002, he was again arrested for domestic assault and Olson received an order for protection against him - citing Tester's numerous acts of abuse, harassment, threats to kill her and his intention to buy a gun. In January 2003, the court ordered that the protective order be continued until Jan. 25, 2005, because Tester was repeatedly jailed for violating the order for protection. This was a dangerous man.

Given his history, we question why Tester was granted unsupervised visitation with Mikayla at all. Research shows that men who batter women are often a threat to their children. According to the American Psychological Association, 40 percent to 60 percent of batterers abuse children. Men who batter women frequently view children as possessions and find ample opportunity to use visitation exchanges to further control and threaten their partners.

Consider the case of Alex and Brandon Frank, who were murdered by their father in Cold Spring in 1996. During custody proceedings, their mother testified that Kurt Frank threatened to kill the boys if she left him.

Ignoring her pleas, the court granted Frank unsupervised visitation, which led to the children's murders. While the Alex and Brandon Child Safety Act of 1997 instructs the court to "consider" domestic violence when determining custody and visitation, too often the judicial system fails our children by awarding unsupervised visitation or even physical custody to batterers.

We know that custody cases involving domestic violence are some of the most difficult handled by the courts. While the courts try to balance parenting time with safety, the information available to them to predict which batterers will turn into murderers is far from adequate. Perhaps the court could have interpreted the pattern of violence, harassment and protection order violations as a signal of potential lethality and intervened to limit Tester's unsupervised access to Mikayla and require that he receive treatment. The murder of this little girl must be a wake-up call to everyone that the safety of children cannot be secondary to the "rights" of a violent parent.

Let us focus attention on the real victims here. Mikayla will never see her first day of kindergarten or ever again snuggle with her mother. Mikayla's mother will never again hold her or kiss her beautiful face. Mikayla's family, her friends at day care, those who watched her grow, those who attended her in death and those who will never know her in life are also victims. Although these victims haunt our hearts and minds, we cannot forget the children suffering at the hands of a parent today and those who may be murdered tomorrow. We must learn from this tragedy and dedicate ourselves to making sure no child, mother or family ever again suffers such a horrible fate.

Cook is executive director of the Minnesota Coalition for Battered Women in St. Paul. Gamache is chairwoman of the Minnesota Coalition for Battered Women Board of Directors and director of the Battered Women's Justice Project in Minneapolis.

The 2004 Femicide Report: Women and Children Murdered in Minnesota

Minnesota Coalition for Battered Women

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About the Femicide Report

The Minnesota Coalition for Battered Women monitors information about women and children murdered in our state to educate the public about the lethality of violence against women and child abuse. We pledge to remember the women, children, and family members and/or friends who die each year from domestic violence and the women and children who die while being used in prostitution and sex trafficking—systems of violence against women and children. Women and children used in prostitution and sex trafficking are battered women in need of protection from abuse. We also remember the women and children who were murdered by friends, acquaintances, strangers, or unknown perpetrators.

We challenge communities to respond to battered women and their children by providing adequate funding for safe shelter and advocacy services, prevention education for all elementary and secondary students, laws to protect women and children, effective enforcement of those laws, and aggressive prosecution of all domestic assault crimes and all prostitution crimes targeting perpetrators, pimps, and "johns."

In reporting the total number of deaths, it is important to note that *at least* this many women and children have been murdered. We cannot be certain we have not missed some deaths since we must use a method of data collection that relies upon news accounts. No state or federal agency collects comprehensive data on domestic homicides. In addition, the murders of women of color, women living in poverty, rural women, lesbians, and women and girls used in prostitution and sex trafficking may be underreported in our listing as they may go unreported in mainstream media.

The 2004 Femicide Report is compiled from news accounts. Please contact MCBW if we have missed a death or if you have updated or more complete information on any femicide.

We ask that the Minnesota Coalition for Battered Women be credited when information from this report is used.

In Minnesota in 2004:

At least 13 women were murdered in cases where the suspected, alleged, or convicted perpetrator was a current or former husband, boyfriend, intimate partner, or household member, or family member of the deceased woman.

At least 12 children under the age of 18 were murdered in cases where the suspected, alleged, or convicted perpetrator was their mother's husband, boyfriend or intimate partner, or was the parent, guardian, baby-sitter, day care provider, or household/family member of the child.

At least 7 women were murdered in cases where the suspected, alleged, or convicted perpetrator was an acquaintance of the deceased woman or child, or was a stranger or an unknown assailant.

At least 3 friends or family members were murdered in domestic violence-related situations.

At least 12 children have been left motherless.

5. Lynette Rossin, 48**Goodview****May 8, 2004**

Lynette was found in the bedroom of her former home, dead of gunshot wounds. Her husband, Mike Rossin, 49, was also found dead of gunshot wounds. Police determined that Mike Rossin had shot his wife to death and then committed suicide. The couple was in the process of divorcing. On the night of the murder, Lynette was spending the evening across the street at the home of Goodview Mayor Jack Weimerskirch, along with her sister and brother-in-law. Mike Rossin telephoned the mayor's home and asked Lynette to come over to talk to him. When Lynette did not return after 90 minutes, her sister and brother-in-law went to the Rossin house, where they discovered the bodies. Lynette had been living with her mother a few blocks away from her former home. Her daughter was living with Lynette and her son was living with his father. Lynette was a nurse who worked for 29 years at the same clinic. In her spare time enjoyed golfing, cross stitching, exercising, river life, knitting and crocheting.

6. Diane Levy, 47**Minneapolis****May 15, 2004**

Minneapolis police had been to the home of Diane and Frank Levy to arrest Frank at least seven times after receiving calls reporting domestic abuse. In at least two cases, he threatened to kill Diane with a knife. On the morning of May 15, Frank Levy made good on his threats, stabbing his wife to death more than 30 times, using a kitchen knife and scissors. Diane Levy's 15-year-old daughter told police that she woke up to screams that morning and heard her mother yell, "No, don't do this! What are you doing?" When the daughter went into the couple's bedroom, she saw Frank stabbing her mother. The teen jumped on Frank Levy's back but he fought her off and stabbed her in the process. The girl called out to her uncle, Diane's brother, who was downstairs. The uncle hit Frank Levy with a chair but Levy stabbed him at least seven times before running from the house. Diane Levy died before police could arrive. The uncle was in serious condition at the hospital but survived his injuries. Diane's daughter was treated for stab injuries to her face and released. Later that day, Frank Levy showed up at a local police station and said he had just tried to kill his family. Frank Levy was charged with two counts of first-degree murder, including having a pattern of past domestic abuse, and two counts of first-degree attempted murder. In November, Frank Levy pleaded guilty to second-degree unintentional murder and first-degree assault for stabbing Diane Levy's brother. Under the plea agreement, Levy received 37½ years in prison.

7. Erin Rooney, 33**Burnsville****July 13, 2004**

Charles Barnes, 38, called a police dispatcher and said he had just arrived home to find his ex-wife, Erin, unconscious. He told the dispatcher that he thought she had overdosed on drugs and he had given Rooney a shower to attempt to wake her up. When police arrived, they found no signs of drug use except for a single hypodermic syringe, which Barnes said he had found. The Dakota County medical examiner later found that Rooney died of injuries consistent with being hit and strangled, including bruises to her face, cuts on the inside of her mouth and neck injuries. Barnes has two criminal convictions in connection with assaulting Erin Rooney. "This victim suffered a violent death in what appears to be another tragic example of escalating domestic violence," stated Dakota County Attorney James Backstrom. Barnes was sentenced to life in prison.

8. Sheng Vang, 21**Minneapolis****July 18, 2004**

Sheng was found stabbed to death in the St. Paul garage belonging to a member of her estranged husband's family. Police are calling it a case of deadly domestic violence. Sheng's mother had warned her that morning not to go alone to see Moua Her, 22, to retrieve legal documents she needed for a passport. "I told her, 'I will go with you. You can tell the police to go with you. That man is very dangerous,'" she said. According to police, family records and court documents, in the past several years there had been many reports of fights, threats, and abuse of Sheng. Sheng Vang obtained an order for protection against her husband, which was granted after an incident in March when Her tried to strangle his wife and stun her with some sort of electrical weapon. The couple had met in high school and court records show that the abuse started within months of their January 2000 wedding. Moua Her fled the Twin Cities to evade arrest and was captured by police outside of Chicago, after he attempted to use his credit card to pay for an escort service. Sheng was working on a business career while attending Century College. She leaves behind a 2-year-old daughter. In 2006, Moua Her was convicted with charges of first-degree and second-degree murder. He was sentenced to life in prison.

9. Angela Sangster, 32**Minneapolis****September 4, 2004**

Norman Howard, 51, murdered his girlfriend, Angela, by shooting her in the head. Last fall, Angela told police that Howard had said he would kill her, and that he threatened to stab her with a screwdriver in their home. The night of the murder, the couple went together to a Minneapolis bar. Howard became enraged at Sangster when she didn't want to leave the bar when he did. Later that evening, he shot Angela in his car. Later that night, Howard told a friend that he "killed his woman" and then passed out. Norman Howard was charged with two counts of second-degree murder. He was convicted of rape in 1979 and third-degree assault in 1989. Howard was sentenced to ten years in prison for Angela's murder.

10. Casandra Current, 26**Minneapolis****September 10, 2004**

Police found a horrifying sight when they arrived at a North Minneapolis home, finding a 62 year-old man stabbed to death in his front yard and two women stabbed to death in the basement, Casandra, and her mother, Renee Brown, 44. The man was identified as Brown's stepfather, Wayne Huotari. Nine days before the murder, Current's boyfriend, Bryant Jones, 31, assaulted her. The day after, Current reported to police that he had sexually assaulted her. Jones was wanted on a warrant for the assaults at the time of the murder. He had lived with Casandra's family until he sexually assaulted her. Friends and family reported that Jones was an extremely violent man who had assaulted Casandra numerous times. In 2002, an ex-girlfriend of Jones stated that he strangled her and she served him with a protective order. In February 2003, he pleaded guilty to second-degree burglary of his ex-girlfriend's home and violating the protection order. Instead of being sentenced the recommended 38 months in prison, Jones was ordered to complete chemical dependency treatment and one year in the workhouse, according to Hennepin County court records. Jones spent only 6 months in the workhouse. Minneapolis police said they had offered to take Casandra to a shelter. She declined because she was afraid Jones would harm her family if she went to a battered women's shelter. Cassandra is remembered by her aunt, Karo Adolfo: "She was very softhearted. She'd cry over a TV commercial." Renee's family remembered her as someone happiest when she was taking care of her garden or grilling her famous chicken. Wayne worked for Willman Trucking for many years and was remembered by neighbors as a kind man. Bryant Jones was convicted of 12 counts of first-degree murder. He was sentenced to 3 consecutive life sentences. "If we had known [about the abuse], we would have intervened," said Cassandra's uncle, Bill Lamoreaux.

11. Mary Johnson, 42**Alexandria****October 28, 2004**

The Alexandria Police Department received a call at 6:45 p.m. from Mary, who told the dispatcher that she was being threatened with a gun by her husband, Scott Johnson, 43. When police arrived at the couple's home and failed to make contact with them, the Douglas County SWAT team was called out and set a barricade around the home. After securing the home, the team entered the home and found the couple dead. An autopsy found that Scott Johnson had shot his wife and then turned the gun on himself. The couple was in the process of separating. Mary Johnson is survived by two adult sons.

12. Crystal Lindorff, 22**St. Paul****November 16, 2004**

A St. Paul man who served prison time for stabbing a girlfriend was charged in the fatal strangulation of another girlfriend. Alexander Miller, 32, and Crystal had been arguing all day about his infidelity on November 16th when he reportedly strangled her at the apartment they shared with their 9-month-old son. Lindorff's family told police there was a history of Miller abusing Crystal but that she was afraid to report him to police. Paramedics were summoned to the apartment after a report of a woman not breathing. Crystal was taken to the hospital and pronounced dead. Police arrested Miller at the apartment. Alexander Miller received a 45-month sentence for second-degree assault after he stabbed a girlfriend in 1997. Miller was convicted of second-degree murder in Crystal's death.

13. Stacy Ziegler Smith, 29**Winona****December 16, 2004**

A 21 year-old-man, Paul Gordon, was charged with four counts of first-degree murder; four counts of second-degree murder; first-degree criminal sexual conduct; and first-degree arson in the deaths of Stacy and her daughter Taylor, 10. The murder charges include three counts relating to the death of Smith's unborn child. Rescuers responded to a report of a fire at a Winona apartment complex to find the victims dead. It was determined that Stacy and Taylor were strangled to death and that Taylor was also beaten and sexually assaulted. Police have announced that the fire was deliberately set. Friends of Stacy reported that she and Gordon dated for several months and she was pregnant at the time of her murder. Gordon has an extensive criminal record. He was convicted of fourth-degree sexual assault against a 12-year-old girl in 2004 in Arkansas and was arrested in July in connection with raping and strangling a woman in Bentonville, Arkansas. Gordon was arrested in November in Winona on suspicion of cocaine possession and threatening police officers with a fake plastic gun. Gordon is also suspected of pointing a loaded pistol at another man in December. In the weeks leading up to the slayings, Gordon asked witnesses for rat poison and a syringe and told them that he wanted to get Stacy "off my back." Gordon was sentenced to 3 concurrent life sentences for the murders of Stacy and Taylor.

Children murdered in cases where the suspected, alleged, or convicted perpetrator was their mother's husband, boyfriend or intimate partner, or was the parent, guardian, baby-sitter, childcare provider, or household/family member of the child.

1. Dennis Guerrero, 3 months Anoka February 6, 2004

Aldrin Guerrero-Munoz, 24, was sentenced to more than 32 years in prison for the murder of his 3-months-old son, Dennis Guerrero. An autopsy showed that Dennis had two broken arms, a broken leg, two skull fractures and hemorrhaging in his brain when he died. "God had sent that little angel, who made my dream of being a mother come true, even if it was a little time. But I am going to see Denny again," said Dennis' mother, Jessica Lopez. "Then nobody is going to bother us."

2. Rose Marie Heden, 3 months Oklee March 1, 2004

John Heden, 32, was charged with second-degree murder and first-degree criminal sexual conduct in the death of his daughter Rose Marie, 3 months. The Pennington County Sheriff's Department received a call from a man who said his infant was not breathing and had blood coming from her nose. When paramedics arrived, they pronounced the baby girl dead at the scene. The Ramsey County Medical Examiner found that Rose Marie had injuries to her scalp, chin, torso, and genitalia. The cause of death was determined to be brain injuries consistent with shaking the baby, as well as significant injuries to the genitalia. Evidence at the scene included blood on the crib, the bedroom floor, a wet wipe in a trashcan, and on a flannel shirt. Heden had a prior conviction for third-degree criminal sexual conduct in 1990, involving molesting a female child. He served 2 years of probation for this conviction. Heden was sentenced to life without possibility of parole.

3. Gustavo Hunt, 7 months St. Paul March 16, 2004

Steven Showcatally, 34, was charged with unintentional second-degree murder in the death of his 7-month-old son, Gustavo. He is accused of losing patience while taking care of his baby and deliberately dropping him in the bathtub. Showcatally took Gustavo to St. Paul Children's Hospital, where he died about three hours later. Doctors determined that the baby suffered multiple skull fractures and hemorrhages beneath his scalp. Showcatally initially told police that he accidentally dropped the boy in the tub and then carried him into the bedroom, not noticing anything unusual. After police challenged this story due to the severity of Gustavo's injuries, the father said he intentionally dropped the child two more times and that he was responsible for the injuries. In January 2005, Showcatally was sentenced to 12½ years in prison. Ramsey County District Judge Salvador Rosas said at sentencing. "There is no justification for your conduct. You took everything [your son] had." The judge also said he wondered how Gustavo's birth mother in Guatemala felt, having given up her son for adoption to a U.S. couple in the hope that he would have a better life.

4. Yasmine Luna, 6 weeks**Rogers****April 9, 2004**

Edward Kurr, 28, was charged with second-degree manslaughter in the death of his 6-week-old baby girl, Yasmine Luna. According to court papers, Kurr said his girlfriend, Lisa Luna, 24, drank a bottle of vodka the night of April 8 before she passed out on a bed in a Super 8 motel room. Kurr also admitted to drinking that evening. He said he left the motel room, where the couple had lived since March, while the baby slept on the bed with Lisa. He returned at 2:30 a.m., fed Yasmine, then placed her between the couple in the bed and fell asleep. When Kurr awoke 30 minutes later, he said Lisa was lying on Yasmine's head and he was lying on the baby's lower body. Kurr said Yasmine was not breathing but had a heartbeat. He said that when he woke up and realized the baby wasn't breathing, he put her in her crib, hoping she would be warm and alive in the morning. He said he knew something was seriously wrong with Yasmine but didn't call 911 because he was afraid he and his girlfriend would get in trouble for drinking. In the morning, Lisa found her baby lifeless and called authorities. Rescue workers were unable to revive Yasmine. Authorities have stated that it is unlikely that Lisa Luna will be charged.

5. Avryonna Hansen, 3 months old**Alexandria****May 2, 2004**

A grand jury indicted Michael Hansen on murder charges in the death of his 3-month old infant girl, Avryonna Hansen. Shortly before noon on May 2nd, police officers responded to a call that a baby had stopped breathing. Attempts to revive Avryonna failed. A preliminary autopsy indicated a skull fracture, said Alexandria Police Chief Chuck Nettlestad. The Ramsey County medical examiner determined that the baby's death was a homicide. Hansen was charged with three counts of murder in the second degree, one count of murder in the third degree and two counts of manslaughter. He was convicted of second-degree murder and sentenced to 10 years in prison.

6. Newborn Boy**White Bear Lake****May 6, 2004**

An 18-year-old White Bear Lake woman, Amanda Anderson, was arrested for strangling her newborn son after giving birth in the bathroom of her family's apartment. According to the search warrant, the baby appeared to be full term and was found in a white kitchen garbage bag inside a clothes hamper. Anderson, who lived with her family, apparently concealed her pregnancy from her family. "I heard her mother screaming and crying outside," said Charlene Silva, who lives across the hall from the family. "Her mother said she had no idea her daughter was pregnant. [Amanda] was only a month away from graduating from high school." A family friend, who did know that the young woman was pregnant, called police to report that Amanda had given birth and needed help. Anderson pleaded guilty to unintentional second-degree murder and was sentenced to 6 years and 8 months in prison.

7. Mikayla Olson, 5**St. Paul****September 3, 2004**

A motorist in Polk County, Wisconsin, came upon a horrifying sight at midnight on September 3—the bodies of Mikayla Olson, 5 and her father, John Tester, 41, inside a car. Police determined that Tester shot his daughter to death and then turned the gun on himself. Tester and Mikayla's mother had divorced two years before. Despite the fact that John Tester had abused his former wife and was jailed four times for violating the order for protection against him, Tester was given unsupervised visitation rights with his daughter. The murder of his daughter was a premeditated act, driven by a desire for revenge on his former wife. Tester rented a car a few days before the murder, borrowed two handguns from a friend, and wrote a letter to his brothers, detailing how his assets should be distributed after his death. At 8 p.m. the night of the killings, Tester called his ex-wife to say he was "sorry" and had Mikayla speak to her mother and say, "she was going on a long journey with daddy." "I think it was his way at getting back at [his ex-wife]," said Gina Tester, a sister-in-law. Mikayla's mother was afraid for her child's life and hoped to have her former husband's right to unsupervised visitation rescinded by the court. Even Mikayla's daycare provider stated that she was afraid that Tester would harm the little girl. "[Mikayla's mother] lived for this little girl," said Mark Anderson, Mikayla's mother's attorney, "She was a very, very dedicated mother and she did everything she could to protect that little girl from people, but [Tester] was the one guy she could never do anything about because he had court-ordered visitation."

8. Jasmin Bigler, 3 months**Princeton****September 21, 2004**

A 19-year-old Princeton man was arrested in the death his 4-month-old daughter, Jasmin Bigler. The baby died in the early hours of the morning after she was taken to Fairview Northland Regional Hospital. Tiffany Bigler, the baby's mother, said she was asleep in her apartment when her boyfriend, Kelly Braun, 19, woke her. "He came running into the room, holding her and screaming, 'She's not breathing, she's not breathing,'" Bigler said. Bigler said her boyfriend admitted to police that he'd hit Jasmin in the back of the head in frustration. Doctors who treated the baby at Ramsey County Medical Center said that her injuries were consistent with being punched in the head and that she had also suffered 11 rib fractures. A neighbor reported she had called police in the past when she heard Braun assaulting Tiffany Bigler. Tiffany Bigler has stated that Braun hit her so hard while pregnant with Jasmin that she went into early labor. "He used to hit me and yell at me and stuff but he never, I never thought he would do it to his own child," she said. Kelly Braun was convicted of second-degree murder.

9. Katelyn Thongratsamy, 3 St. Michael October 31, 2004

Katelyn Thongratsamy, 3, was found shot to death at her St. Michael home. Her father, Soukanh Thongratsamy, 42, was also found shot in the home. Police determined that the little girl's death was a murder-suicide perpetrated by the father. Deputies responded to a call the afternoon of the 31st after Thongratsamy assaulted his ex-girlfriend, who is also Katelyn's mother. Stacy Doyle of the Wright County Sheriff's Department said that the mother moved out of the house a couple of months before the murder and was back to pick on her daughter after a weekend visit with her father. Doyle said an argument broke out and that the woman was assaulted, threatened with a gun, strangled, and bound before escaping from a basement window and calling police from a neighbor's house. After police responded, they cordoned off the area and unsuccessfully attempted to contact Soukanh Thongratsamy. Police stormed the house, where they found the little girl and her father dead. Katelyn's mother was taken to the hospital and has since recovered from her injuries.

10. Ashanta Chavarria, 3 mos. Worthington November 5, 2004

Lisa Ann Shane, 23, was charged with 2 counts of second-degree murder and felony child neglect in the death of her daughter, Ashanta, 3 months. Ashanta was taken to the hospital on October 28th, after the baby's apnea monitor had activated several times that day. A visiting home nurse noted a small bruise and a scratch on Ashanta earlier in the day. At the hospital, the baby showed brain bleeding and evidence of a stroke, as well as signs of healing fractures on her ribs and signs of head trauma. Ashanta was airlifted to a hospital in Sioux Falls, SD, where she died on November 5. Shane has claimed that the baby's father, Jose Chavarria, had pushed her and she dropped Ashanta. Shane was convicted of second-degree murder.

11. M.H., 2 Maplewood November 25, 2004

Kim Herman, 40, and her boyfriend Terry Bradshaw, 32, were charged with manslaughter in the death of Herman's son, identified only by his initials, M.H. Police were called on a report of a baby not breathing. Herman told investigators that on the day of his death the boy wasn't eating and he had been vomiting a few days before. She said that her son was a "head banger" when asked about a bruise on his forehead. An autopsy revealed that M.H. had died from blunt force trauma to the abdomen and that he had blood in his stomach. He had traces of cocaine in his body. A search of the house shortly after the boy's death revealed marijuana, methamphetamine, and a list of drug contacts. Herman later told police that she and her boyfriend did drugs nonstop and that people were always at their home getting high. In 2005 Bradshaw told police he had been horse-playing with M.H. and fell into him, hitting the boy's stomach with his elbow. Herman and Bradshaw were also charged with first-degree drug sales and child endangerment. M.H. left behind a 6-year-old sister and a twin brother.

12. Taylor Swanson, 10**Winona****December 16, 2004**

A 21 year-old-man, Paul Gordon, was charged with four counts of first-degree murder; four counts of second-degree murder; first-degree criminal sexual conduct; and first-degree arson in the deaths of Stacy and her daughter Taylor, 10. The murder charges include three counts relating to the death of Smith's unborn child. Rescuers responded to a report of a fire at a Winona apartment complex to find the victims dead. It was determined that Stacy and Taylor were strangled to death and that Taylor was also beaten and sexually assaulted. Police have announced that the fire was deliberately set. Friends of Stacy reported that she and Gordon dated for several months and she was pregnant at the time of her murder. Gordon has an extensive criminal record. He was convicted of fourth-degree sexual assault against a 12-year-old girl in 2004 in Arkansas and was arrested in July in connection with raping and strangling a woman in Bentonville, Arkansas. Gordon was arrested in November in Winona on suspicion of cocaine possession and threatening police officers with a fake plastic gun. Gordon is also suspected of pointing a loaded pistol at another man in December. In the weeks leading up to the slayings, Gordon asked witnesses for rat poison and a syringe and told them that he wanted to get Stacy "off my back." Gordon was sentenced to 3 concurrent life sentences for the murders of Stacy and Taylor.

Women murdered in cases where the suspected, alleged, or convicted perpetrator was an acquaintance of the deceased woman, or was a stranger or an unknown assailant.

1. Satociaree Wilson, 22

Minneapolis

April 11, 2004

was shot to death as she in a car with another woman. The woman sitting with her was also shot, but her injuries were not life threatening. Satociaree's father said she was a "beautiful daughter," who had run into trouble on city streets before. "The only thing we can say to her was, 'Get out of the streets.' She wouldn't do it..." A bicyclist returning home that night came upon the scene moments after the shooting. He described a scene of mayhem as Wilson's friends screamed for help. "There were two women running in the middle of the street, because they were in shock," said the man. No suspect has been identified.

2. Melanie Ross, 40

Minneapolis

July 24, 2004

Melanie was found dead under a bridge in Minneapolis. An autopsy found that she had been strangled. A man was arrested in the case, but is no longer a suspect. A motive for the murder is unknown.

3. Deidria Clapp, 38

Eagan

Body found September 6, 2004

Martin Wolter, 42, was arrested after a search of his Blaine home in connection with the murder of Deidria. A passer-by spotted Clapp's body in 5 feet of water in a rock quarry in Belle Prairie Township, near Little Falls, Minnesota. She apparently died from being beaten with a blunt object on the head and body. Plastic weights were tied to her wrists and feet. Wolter, who has a history of alcohol-related driving arrests, was taken to Anoka County jail after several items connecting him to Clapp were found in his residence. Authorities said that they know Clapp had contact with Wolters on the day she was murdered. Wolter was charged with second-degree intentional and unintentional murder. On September 15, he hanged himself in his jail cell.

4. Octavia Adams, 18

St. Paul

September 15, 2004

Octavia was shot while visiting friends in the basement of a St. Paul home. When police arrived at the home, they found the young woman dead. A 16-year-old boy was arrested in connection with Octavia's death. Octavia graduated from Arlington High Scholl in June and was planning on attending college in the fall. She was popular and well known in her neighborhood, where she was a member of the Falcons Drill Team and Drum Corps. Octavia, said her minister, Rev. Daryl Spence, was "an angel." He added, "I just couldn't see her in a casket—all that spirit and all the fun she used to have. You don't think preachers cry? You don't think men cry?"

5. Suzanne Fischer, 59**Ramsey****September 19, 2004**

Suzanne was fatally shot in the head as she lay in bed, sleeping next to her husband. Authorities say Joshua Krueth, 20, broke into the Fischer house to commit the murder. Suzanne's husband awoke and called 911 to report the shooting as the suspect, who was dressed in camouflage, ran away. There was no connection between Krueth and the Fischers. "It's just hard to understand," said Dave Fischer, Suzanne's brother-in-law, "I think if...if the suspect would have sat down and talked to Sue for five minutes, he certainly wouldn't have pulled the trigger." The suspect has also been connected to the murder of Lawrence Plessel, 60, also of Ramsey, who was shot through the window of his kitchen on September 4. After Fischer's murder, an intense manhunt led to the capture of Krueth and the suspected murder weapon. Police have described Krueth as a "serial killer" and a methamphetamine user. Suzanne Fischer, who worked as a nurse, has been described as the kind of nurse you wanted in a crisis. "She brought a soothing calm and a sense of friendship—skills you just can't teach," said Dave Dahl, a colleague at Unity Hospital, where Fischer worked. "And that's what makes this loss so tragic, even to people who never knew her."

6. Patricia Giles, 26**Minneapolis****October 31, 2004**

Patricia was shot to death as she sat in her husband's car in Minneapolis. A dispute developed between the Giles' vehicle and a car driven by Dedrick Jiles, 21. Jiles' brother, Detrick Jiles, 20, allegedly fired three shots at the Giles' SUV and hit Patricia, fatally shooting her. Patricia died at Hennepin County Medical Center from a single gunshot wound to her head. Dedrick Jiles and Detrick Jiles were charged with second-degree murder but charges were later dropped against Detrick Jiles. Police no longer believe he was in the car at the time of the murder. Dedrick Jiles was convicted of second-degree murder.

7. Yasmin Geele, 32**Minneapolis****November 9, 2004**

Yasmin was shot to death in her Minneapolis apartment. Five people were arrested in connection with the murder. Abdisalam Hussein, 28, had promised his conspirators that it would be an "easy mission" to steal drugs and money from two women. The other woman in the apartment at the time of the murder was not hurt. Abdishakur Haji, Yasmin's half-brother, said his sister didn't sell khat, the drug mentioned as a possible motive, but that she hung out with people who did. Haji described his sister as a "happy girl" who had a lot of friends and worked at a day care center. Hussien, Fuad Dhuh, 22, of Burnsville, and the other men—Abdisalam L. Roble, 19, of Brooklyn Park; Abdisalan M. Abdi, 22, and Ismail M. Ali, 20, both of Minneapolis—are each charged with one count of second-degree murder. Although only Ali is accused of using the gun, all five men are charged with murder because they all were involved in the robbery that resulted in Geelle's death, Klobuchar said. Ali was convicted of second-degree murder. The four others were convicted of lesser charges.

Friends or family members murdered in domestic violence-related situations.

1. Darryl Horton, 48

Minneapolis

March 25, 2004

Joseph Robinson, 46, pleaded guilty to stabbing his ex-girlfriend and killing her boyfriend in March. Robinson spent the evening with victims Laurie Brown and Darryl Horton, 48, at Brown's home. Robinson left, only to return because he said police were looking for him. When Laurie Brown opened the door, Robinson began stabbing her. Horton managed to distract Robinson enough to allow Laurie Brown to escape, but then Joseph Robinson stabbed Darryl Horton to death. Laurie Brown survived her stabbing injuries. Robinson will be sentenced to 12 years and nine months for second-degree unintentional murder.

2. Renee Brown, 44

Minneapolis

September 10, 2004

3. Wayne Huotari, 61

Please see Casandra Current in Women Murdered.

About the Minnesota Coalition for Battered Women

The Minnesota Coalition for Battered Women was founded in 1978 to serve as a unifying voice for battered women and to link battered women's programs in the state with the common purpose of ending domestic violence. MCBW is a statewide membership organization of local, regional, and statewide programs advocating on behalf of battered women and their children.

MCBW promotes social change-- individual, institutional, and cultural. We work to end oppression based on gender, race, age, affectional orientation, class, and disability. The specific work of MCBW involves changing systems and institutions so that they can respond more effectively. MCBW works to empower organizations that serve victims of domestic abuse. MCBW provides widespread networking opportunities for organizations that serve battered women and is the statewide voice on behalf on battered women and provides leadership on a regional, statewide, and national level.

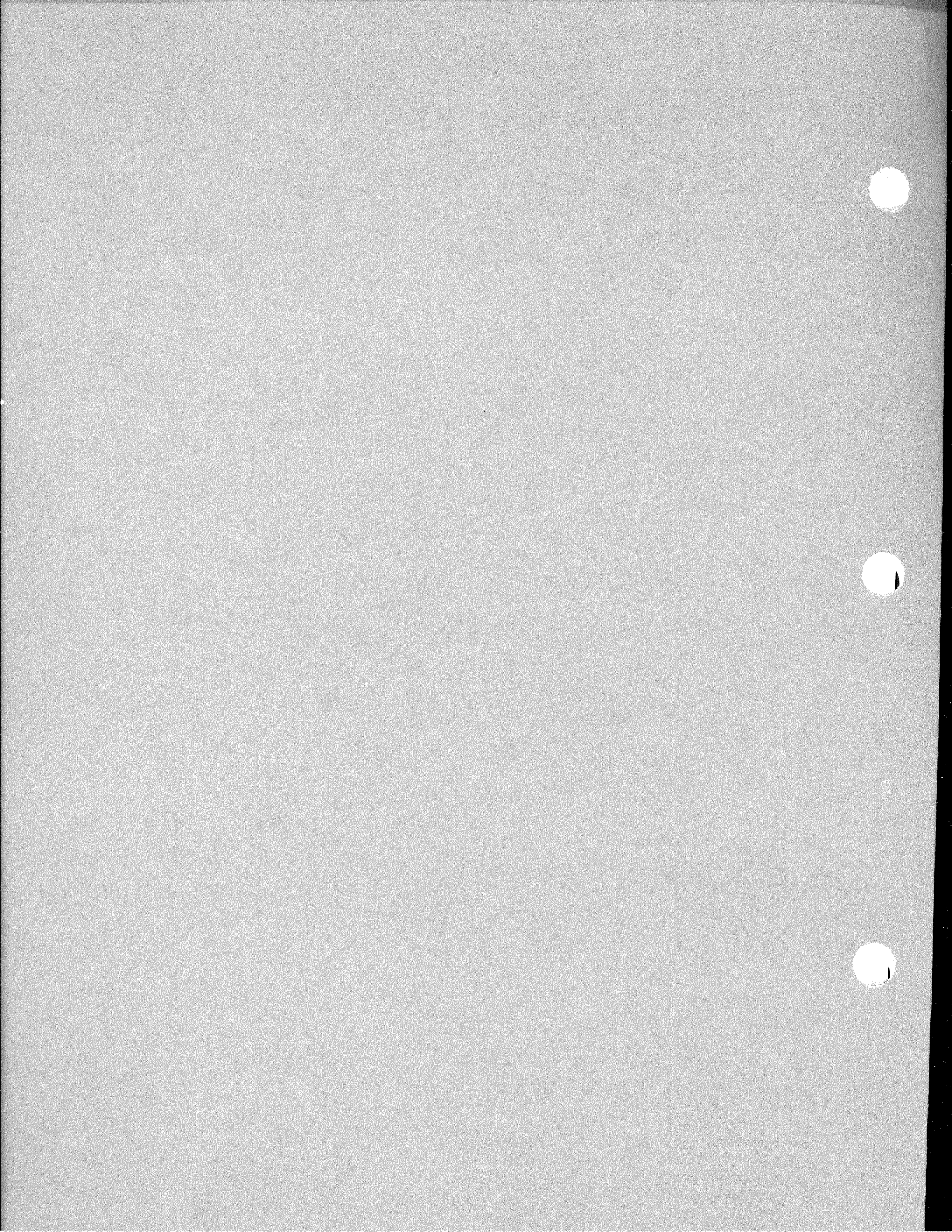
MCBW's activities include resources and referrals for individuals, legislative and public policy advocacy on a statewide and federal level, sponsoring training events for programs that serve battered women, coordinating statewide task force meetings, serving as an information clearinghouse, publishing a quarterly newsletter and web site, and producing community education materials.

Mission Statement:

The mission of the Minnesota Coalition for Battered Women is to provide a voice for battered women and member programs; challenge systems and institutions so they respond more effectively to the needs of battered women and their children; promote social change; and support, educate, and connect member programs.

Vision Statement:

The vision of the Minnesota Coalition for Battered Women is to end violence against women and their children and to achieve social justice for all.



How State Funding Cuts Have Affected Services for Battered Women and their Children in Minnesota

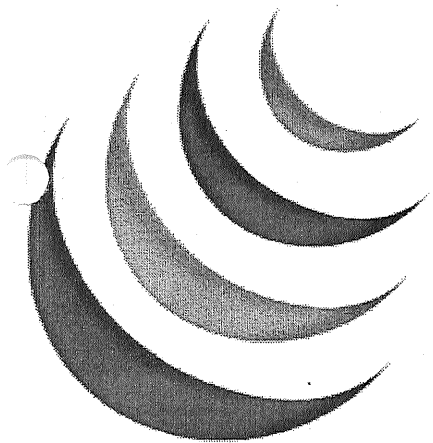
Crime Victim Services Funding	Battered Women's Shelter Funding
<p>Funding history: State funding for battered women, sexual assault, abused children, general crime and parenting time center programs was reduced from \$9.522 million per year in FY00 to \$5.184 million in FY05, a funding cut of 45.6%. While the state was able to use federal funds to mitigate some of the cuts, \$1.2 million per year funding gap continues to exist and affects the ability of battered women's programs to provide services.</p>	<p>Funding history: State funding for battered women's shelters and safe homes was reduced from \$17.979 million per year in FY01 to \$15.379 million per year in FY05, with a range of cuts from \$20,000 to \$400,000 for shelters with a higher bed capacity.</p>
<p>Impact of funding cuts on battered women's programs funded by crime victim services grants:</p> <p>Women seeking help have less access to advocacy and support</p> <ul style="list-style-type: none"> ▪ For example, Home Free Community Programs in Plymouth has had to cut its staff in half. The Southwest Crisis Center in Worthington, which serves five counties, lost 2 of 8 staff positions and had to reduce its 6 crisis phone lines to 2 lines. The Women's Resource Center of Winona has begun to close its doors earlier each day. These are programs that were already operating with the bare minimum of resources—all of this in the face of increasing numbers of victims coming to them for help. <p>Entire program components have been cut</p> <ul style="list-style-type: none"> ▪ Southern Valley Alliance in Belle Plaine, for example, had to cut their children and youth advocacy program and their Carver County criminal justice intervention program. HOPE Center in Faribault no longer offers services to abused children. <p>Funding used to meet emergency needs have disappeared, particularly in rural Minnesota</p> <ul style="list-style-type: none"> ▪ For example, Range Women's Advocates in Virginia can no longer offer battered women funds for emergencies such as food, gas, or rent. 	<p>Impact of funding cuts on battered women's shelters:</p> <p>Women seeking help have less access to advocacy and support</p> <ul style="list-style-type: none"> ▪ Many shelters have had to cut staff or leave open positions unfilled while responding to the same number or more women and children seeking emergency shelter. For example, the loss of three staff at Alexandra House in Blaine has resulted in a reduced level of all support services—less childcare, less one-to-one contact, less transportation, less assistance with court proceedings. This hampers women's ability to schedule and keep appointments, attend court hearings, and pursue job-seeking activities. <p>Entire program components have been cut</p> <ul style="list-style-type: none"> ▪ Shelters throughout the state have had to cut non-residential program components (community education/prevention programs in local schools; batterer's intervention programs; community advocacy offices; etc.) in order to shift discretionary funds to maintain shelter operations. For example, Shelter House in Willmar cut their children's program and Anna Marie's in St. Cloud cut children's program and their batterer's intervention program, and Asian Women United in St. Paul cut back on their community-based advocacy program.

How State Funding Cuts Have Affected Services for Battered Women and their Children in Minnesota

<p>Women of color and immigrant-refugee women have less access to culturally specific services</p> <ul style="list-style-type: none"> ▪ Programs serving Native American, Somalian, Korean, African American, and Asian women have had to close their doors. <p>Programs must devote an inordinate amount of time to private sector fundraising</p> <ul style="list-style-type: none"> ▪ For example, Advocates Against Domestic Abuse in Aitkin and the Lakes Crisis and Resource Center in Detroit Lakes must spend less time providing services to battered women to work on fundraising. 	<p>Funding used to meet emergency needs have disappeared, particularly in rural Minnesota</p> <ul style="list-style-type: none"> ▪ Shelters in every region of the state have reported that shelter residents have been negatively affected by changes in public assistance eligibility requirements and other government funding cutbacks: co-payments for prescription drugs, reductions in emergency financial assistance, longer waiting lists for subsidized housing and childcare, work/volunteer requirements associated with MFIP, tougher screening for housing. The Committee Against Domestic Abuse in Mankato, for example, has found its ability to provide emergency funds has been severely limited. <p>The costs of operating and maintaining shelter facilities have risen substantially</p> <ul style="list-style-type: none"> ▪ Shelters throughout the state report that the volatile spikes in heating costs, insurance premiums and other usual inflationary increases for food, supplies, and services along with the maintenance and repair costs for older buildings have created an increased budget burden.
<p>Battered women's programs Provide services in 78 Minnesota counties. In FY 03, nearly 13,000 victims were provided shelter/emergency housing and almost 65,000 primary and secondary victims received services from Minnesota's battered women's programs.</p> <p>Sexual assault programs Provide services in 71 Minnesota counties. In FY 03, sexual assault programs served 12,880 primary and secondary victims.</p> <p>Abused children's programs Provide services in 31 Minnesota counties. In FY 03, over 8,000 children in Minnesota were provided abused children's services.</p> <p>General crime programs: Provide services in 60 Minnesota counties. In FY</p>	<p>Battered women's shelters 27 shelters in Minnesota located in 16 counties.</p> <p>Battered women's safe homes and hotel/motel networks 30 safe home and/or hotel-motel housing programs in Minnesota located in 29 counties.</p> <p>Battered women's shelters, safe homes and hotel-motel networks provided safe housing to 6,347 women and 6,578 children in FY03.</p>

How State Funding Cuts Have Affected Services for Battered Women and their Children in Minnesota

<p>03, 42,000 primary and secondary victims were served by general crime programs.</p>	
<p>Crime victim service funding supports the following services:</p> <p>Battered women's programs People served include adult and teen victims of domestic violence, harassment/stalking, OFP violations, terroristic threats, felony assault, and child witnesses of domestic violence. Services include personal and legal advocacy, civil/criminal legal remedies, support groups, criminal justice intervention, transportation, economic sufficiency planning, information and referral services, and prevention programs.</p> <p>Sexual assault programs People served include adult and teen victims of sexual assault, adults victimized as children, and victims of sexual harassment, stalking, and sexual exploitation. Services provided include crisis intervention, personal and legal advocacy, support groups, assistance in emergency situations, transportation, medical assistance, and information and referral services.</p> <p>Abused children's programs Services to abused children and their parents include personal/legal advocacy, crisis intervention, information and referral, play therapy, assessment interviews, parenting time/safe exchange visitation centers, and parenting assistance programs.</p> <p>General crime programs: People served include victims of crimes such as homicide, assault, robbery, burglary, theft, arson, and terroristic threats. Services provided include crisis intervention, acting on victims' behalf with social services or criminal justice agencies, seeking victim compensation benefits, trial support, and information and referrals.</p>	<p>Battered women's shelter funding supports the following services:</p> <p>Battered women's shelters A residential facility providing 24-hour emergency crisis intervention, temporary shelter (1-60+ days depending on need), legal and systems advocacy and accompaniment, support groups, children's advocacy, information and referral, transportation, community education, and training of community professionals.</p> <p>Battered women's safe homes Part of the programming offered by some community advocacy programs and some shelters, both rural and metro. These are private homes in which owners volunteer to house battered women and their children on a short-term temporary basis (1-3 nights). Some shelters use this network as a backup when full.</p> <p>Battered women's hotel-motel housing Part of the programming offered by some community advocacy programs and some shelters, both rural and metro. Battered women and their children are housed in a hotel or a motel on a short-term temporary basis (1-3 nights). Some shelters use this network as a backup when full.</p>



MNCASA

Minnesota Coalition Against Sexual Assault

Sexual Assault Funding Fact Sheet 2005 Legislative Session

PREVELANCE OF SEXUAL VIOLENCE

- ◆ According to a study conducted by the National Victim Center, 1.3 women (age 18 and over) in the United States are forcibly raped each minute. That translates to 78 per hour, 1,871 per day, or 683,000 per year.
- ◆ 12% - 16% of all sexual assault victims ever report rape, and of the reported rapes only 30% of the rapists were arrested. (Source: "Sexually Violence Predators and Civil Commitment", Darling, C., Schram, D.)
- ◆ In a report released in February 2004, The Wilder Foundation found that 40% of homeless women in Minnesota experienced sexual abuse as children and that 3 out of 10 homeless youth have been sexually abused.
- ◆ The Center for Adolescent Nursing at the University of Minnesota's School of Nursing found that males and females who had experienced any kind of sexual abuse had significantly increased odds of teenage pregnancy.
- ◆ The Minnesota Bureau of Criminal Apprehension Predatory Offender Registry contains over 14,000 sex offenders. Less than 1% of those offenders are Level three sex offenders and over 10,000 offenders have been assigned no risk level.
- ◆ In a sample of imprisoned sex offenders with fewer than two known victims actually disclosed an average of 110 victims were actually disclosed. (Source: Almeyer, S., Heil, P., McKee, B., & English, K., (2000) "Impact of polygraph on admissions of victims and adult sexual offenders")

FUNDING DISPARITIES FOR VICTIMS:

- ◆ In SFY2004, State funding for the Office of Justice Programs for programs that provide direct services to thousands of victims of sexual assault as well as education about prevention totaled \$941,750 the equivalent of:
 - incarcerating 36 people for one year or
 - \$902 per month per county or
 - \$0.19 per person in Minnesota

Compare this to:

- \$304,081,000 for the MNDOC Institutional Budget
- \$111,972,000 for the MNDOC Community Services budget
(Source: MN Department of Corrections Fiscal Report, 2003)

◆ Sexual violence is expensive:

- The annual costs of adult victims of rape in the United States are \$127 billion.
- Add to that figure \$71 billion annually from sexually violent acts against children 14 and under*

*Source: *Sexual Violence Basics: How Much Does Sexual Violence Cost*, at 1 (Minnesota Department of Health 2000) (www.health.state.mn.us/injury/pub/kit/basiccost.pdf)

CONCLUSION:

- ◆ Victims of sexual violence should be the center of any approach to sex offender management.
- ◆ Prevention of sexual violence IS part of public safety in Minnesota.
- ◆ Victims of sexual violence have a right to justice.

**Slipping Through the Cracks:
How Incomplete Data Collection Allows
Domestic Abusers Access to Firearms**

Citizens for a Safer Minnesota Education Fund

Battered Women's Justice Project

December 2004

About the Contributors

Citizens for a Safer Minnesota Education Fund (CSMEF) is a state-based, nonprofit organization that educates policymakers and the public about the causes of gun violence. Using a public health model, CSMEF advocates for sensible policies to prevent gun death and injury based on sound, academic research.

Battered Women's Justice Project (BWJP) is a program of the Minnesota Program Development, Inc., a federally funded, non-profit organization focusing on eliminating one form of violence that women experience – battering. The Battered Women's Justice Project provides training and technical assistance nationwide to communities that are developing organized responses to domestic violence. It focuses on effective criminal justice system intervention through the development of inter-agency coordination and policy development that guides individual practitioners in the use of arrest, prosecution, sentencing, victim safeguards and batterer's intervention programs.

CSMEF and BWJP would like to extend special thanks to Susan Rico of the Minnesota Bureau of Criminal Apprehension and Karen Buskey of the Minnesota Supreme Court for their assistance in explaining the different systems involved and obtaining the raw data we needed.

Summary

Citizens for a Safer Minnesota Education Fund (CSMEF) and the Battered Women's Justice Project (BWJP) recently conducted a project to assess the completeness of the Criminal History Database maintained by the Bureau of Criminal Apprehension (BCA) for domestic violence misdemeanors.¹ It was determined that less than 30% of individuals convicted of misdemeanor domestic assault during a one-year period were found in the BCA live criminal database. The following report provides background information, detailed methodology, implications, and recommendations based on these results.

Domestic Violence and Firearms

Almost 700,000 people are abused by their partners each year in the United States, according to the Bureau of Justice Statistics, and over 1200 women are killed by an intimate partner each year.² Within Minnesota, 16 of every 100,000 Minnesotans were hospitalized for intimate partner violence in 2001. Thirty-one people in the state were killed by an intimate partner in 2000.³ Victims of domestic violence account for more than one-quarter of all violent crime victims in the state of Minnesota.⁴

While many people are seriously injured from domestic violence, the likelihood of death increases dramatically when a firearm is present. In 1998, two-thirds of all domestic homicides in the United States involved guns.⁵ Similarly, a study of factors related to violent deaths among women found that women with guns in the home were 7.2 times more likely to become a victim of domestic homicide compared to those without a gun.⁶ A more recent study appearing in the *American Journal of Public Health* also found that women whose abusers had access to a firearm were 7.6 times more likely to be killed.⁷ Additionally, a gun in the home of an individual with a previous domestic violence assault increases the risk of domestic homicide by 20-fold.⁸ Within Hennepin County⁹ and the State of Minnesota, investigators found that two-thirds of all individuals killed in domestic homicides were killed with a gun. In 1997, 25% of guns forfeited in Minnesota were connected to a domestic assault.¹⁰

Federal Legislation

State and federal lawmakers have recognized the link between intimate partner homicide and firearms. In 1993, the U.S. Congress passed the Brady Handgun Violence Prevention Act which sought to prevent individuals convicted of a felony from possessing or purchasing a handgun by requiring a background check for all individuals purchasing a firearm from federally licensed gun dealers. The law was strengthened in 1996 by expanding the prohibition of gun purchase or even possession to those convicted of domestic violence misdemeanors; this law is frequently referred to as the Lautenberg Amendment.¹¹ The National Instant Criminal Background Check System (NICS), maintained by the FBI, is the database used by federally licensed firearm dealers to conduct these background checks. The database contains the criminal histories from some states or refers back to local databases for other states such as Minnesota. Because the vast majority of criminal records are state records, the capability of NICS to effectively screen firearms purchasers depends largely on the ability to access and interpret these state records.¹²

Under federal law, the FBI only has 3 days to determine whether an applicant is eligible to purchase a gun. If the FBI is unable to determine whether there is a disqualifying conviction, the sale is allowed to proceed. The FBI must then try to retrieve the gun if it later learns that the applicant was not legally allowed to possess it. According to the U.S. General Accounting Office, in just three years, over 2,800 domestic violence offenders were able to purchase guns without being identified by NICS. And almost 26% of retrievals by the FBI involved domestic violence offenders.¹³

State Legislation and Criminal History Tracking

Minnesota state law prohibits a person convicted of misdemeanor domestic assault from possessing a pistol for at least three years (Minn. Stat §609.2242, subd. 3.) Minnesota state law also provides that a misdemeanor domestic assault can be enhanced to a gross misdemeanor or felony if it occurs within 5 years of previous domestic assault convictions.¹⁴ In order to be able to charge these repeat offenders properly, prosecutors must have access to accurate and complete criminal history records.

The state of Minnesota maintains its criminal history database through the Bureau of Criminal Apprehension (BCA). This database is used for local background checks, and is the referral source for individuals running a national check on NICS.

The procedure for entering convictions into this system varies based on offense. Felony and gross misdemeanor information is automatically forwarded electronically to the BCA by the courts. As counties are implemented on the Court's new Minnesota Court Information System (MNCIS), the daily court pass of information to BCA will also include targeted misdemeanors. Currently, for all misdemeanors, including domestic assault convictions, local law enforcement is responsible for sending conviction records to the BCA.

In all cases, fingerprints are required before an arrest can be entered into the database in order to verify the identity of the individual with the criminal conviction. By law, law enforcement must record the fingerprints of all persons arrested for targeted misdemeanors (including 5th degree assault and misdemeanor domestic assault) and forward the information to the BCA within 24 hours.¹⁵ If the BCA receives a record of a conviction from the court for which it has no fingerprint information, that record is placed in a suspense file. The BCA must then follow-up with the law enforcement agency to obtain the fingerprint card.

Misdemeanor Domestic Assault Tracking

A 2002 report from the U.S. General Accounting Office (GAO) found that nearly 3,000 domestic abusers bought firearms between 1998 and 2001. The GAO concluded from the study that state laws and procedures are currently inadequate to allow the NICS to function correctly to keep guns out of the hands of those who commit crimes of domestic violence.¹⁶

In order to determine the effectiveness of Minnesota's reporting system, CSMEF and BWJP reviewed the reporting rates for domestic assault misdemeanors in the state. According to Supreme Court records, between May 1, 2002 and April 30, 2003, 3,189 individuals were convicted of or pleaded guilty to one of two domestic assault misdemeanor charges.¹⁷ (Minn. Stat. §609.2242 subd. 1 and Minn.

Stat. B609.224, subd. 1) According to the BCA records for that same period, only 949 convictions were received from law enforcement with the required fingerprint cards and entered into the electronic database.¹⁸ An additional 137 convictions were received without fingerprint cards and, therefore, could not be entered.¹⁹ Thus, only 30% of all convictions for misdemeanor domestic assault in the state over a one-year period were successfully forwarded to the BCA for inclusion in the automated database. According to these statistics, the remaining 70% of individuals with a misdemeanor domestic assault conviction could potentially illegally purchase a handgun or obtain a permit to carry a weapon in Minnesota. This statistic reveals a significant problem with the system established by the State and Federal Legislatures to keep lethal weapons out of the wrong hands.

Recommendations

Based on the inadequate reporting of domestic violence misdemeanors in the BCA database, CSMEF and BWJP make the following recommendations:

- 1)** The Supreme Court should convert misdemeanor reporting to an electronic system similar to that used for felony convictions. This would eliminate the burden on local law enforcement and would likely improve the percentage of misdemeanor convictions entered into the criminal history database. It would also create a suspense file so that the BCA can monitor whether fingerprint records are being obtained.

CSMEF and BWJP have learned that the Supreme Court began testing an electronic pass of targeted misdemeanor data, including domestic violence convictions, to the BCA in October 2004. Once the testing is completed, all of the data that is currently in the court's warehouse (targeted misdemeanor cases that have had any activity since May of 2002) will be passed to the BCA and a daily pass of disposed cases will be implemented from that point forward. In addition to current charges, it is estimated that there may be as many as 120,000 old files from prior to 2002 that will be sent to the BCA. We urge officials at both agencies to closely monitor the implementation of the electronic pass to insure that this critical information is correctly being captured by the BCA and that adequate resources are devoted to eliminating the anticipated backlog created by transferring some 120,000 old cases at the same time. Due to the potentially serious consequences that can flow from the live criminal history database being incomplete, we urge the Supreme Court and BCA to have their electronic pass working by the end of the year.

- 2)** The Supreme Court, the BCA, and local law enforcement must develop a strategy for capturing the names of all individuals convicted of a domestic violence misdemeanor who have not yet been entered into the system. After conversations with the Supreme Court and the BCA, it appears that this is a formidable task both because the court data is not easily accessible and because law enforcement may be prevented from obtaining fingerprints if the defendant has already completed probation. We recommend that the Department of Public Safety be required to explore ways that these obstacles can be overcome so that prior convictions can be captured and recorded with the BCA.

Fortunately, some of this information may be available in the Criminal Justice Intervention databases maintained by various battered women's advocacy groups in some parts of the state. The Department of Public Safety should work with the advocacy community to develop procedures so that their information can be incorporated easily into the BCA's database.

- 3)** Because of the importance of fingerprints for inclusion of convictions into the criminal history database, it is imperative that law enforcement ensures that all defendants who are arrested for misdemeanor domestic violence assault are fingerprinted. The BCA has held over 150 county wide workshops to stress the necessity of fingerprint cards for each arrest and the unintended consequences of not obtaining arrest cards. The BCA also addresses this problem in its Computerized Criminal History (CCH) Audits of Law Enforcement agencies.

Unfortunately, despite this training, fingerprints still are not always 1) obtained at the time of arrest for misdemeanor domestic assault defendants or 2) forwarded to the BCA as required. For example, the Minneapolis Police made 2,368 domestic assault arrests in 2002 and yet the BCA only received 308 fingerprint cards from all of Hennepin County in a one-year period May 1, 2002 to April 30, 2003.²⁰ We recommend that the Department of Public Safety task force also explore alternative methods of insuring that law enforcement agencies are properly capturing and forwarding fingerprint information to the BCA. Perhaps the booking process could be reprogrammed so that defendants could not be booked into the jail without forwarding their fingerprints to the BCA.

- 4)** Because fingerprint identification is the only accurate method for verifying individual's identities, fingerprints should be required to obtain a permit to purchase or carry a weapon.
- 5)** All of the above changes will require financial and staff resources on the part of the BCA, the Supreme Court, and local law enforcement. We strongly recommend the allocation of funds by the State Legislature to accomplish these changes.

Firearms in the hands of domestic abusers represent a tremendous risk to the women and children who fall victim to this abuse. Lawmakers have recognized the need to protect victims from firearm injury and death by prohibiting access to these weapons for individuals convicted of domestic assault. In Minnesota and many other states, however, good intention has become lost in the intricacies and logistical details of the reporting system. CSM and BWJP now bring the system failures to the attention of the public and elected officials in the hope that future energy and resources may be devoted to correcting these problems.

¹ Minn. Stat. §§609.224 and 609.2242.

² Rennison, C.M. 2003. Intimate Partner Violence, 1993-2001. Bureau of Justice Statistics Crime Data Brief, NCJ 197838. US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Available at: <http://www.ojp.usdoj.gov/bjs/abstract/ipv01.htm>.

³ Minnesota Department of Health. 2002. Intimate Partner Violence. Violence Data Brief, No 1, November. Injury and Violence Prevention Unit. Available at: www.health.state.mn.us.

⁴ Minnesota Coalition for Battered Women. 2003. Facts about Domestic Violence in Minnesota and in the United States. Available at: www.mcbw.org.

⁵ U.S. Department of Justice, Bureau of Justice Statistics, Homicide Trends in the U.S., Intimate Homicide, <http://www.ojp.usdoj.gov/bjs/homicide/intimates.htm>.

⁶ Bailey, JE, Kellerman, A.L. et al. 1997. Risk factors for violence death of women in the home. Archives of Internal Medicine, 157: 777-782.

⁷ Campbell, J.C. et al. 2003. Risk factors for femicide in abusive relationships: results from a multisite case control study. American Journal of Public Health, 93(7): 1089-1097.

⁸ Kellerman et al. 1993. Gun ownership as a risk factor for homicide in home. New England Journal of Medicine, 329: 1084-1091.

⁹ Lederer, S, ed. 2002. A Matter of Life and Death. Hennepin County Domestic Fatality Review Pilot Project.

¹⁰ MN State Auditor's Office. 1997. Gun Points 1997: Firearm Forfeitures in Minnesota.

¹¹ Disarming Domestic Violence Abusers: States Should Close Legislative Loopholes that Enable Domestic Abusers to Purchase and Possess Firearms. 2003. Brady Campaign to Prevent Gun Violence, Los Angeles, CA.

¹² US General Accounting Office. 2002. Gun Control: Opportunities to Close Loopholes in the National Instant Criminal Background Check System. Report to the Ranking Member, Committee on the Judiciary, House of Representatives. GAO 02-720, page 5. Available at: http://www.securitymanagement.com/library/gao02720_gun1002.pdf

¹³ Id. at 3-5.

¹⁴ Minn. Stat. §§609.224, subs. 2 and 4 and 609.2242, subs. 2 and 4.

¹⁵ Minn. Stat. §299C.10, subd. 1(a) and 1(b).

¹⁶ US General Accounting Office. 2002. Gun Control: Opportunities to Close Loopholes in the National Instant Criminal Background Check System. Report to the Ranking Member, Committee on the Judiciary, House of Representatives. GAO 02-720. Available at: http://www.securitymanagement.com/library/gao02720_gun1002.pdf.

¹⁷ Information from Minnesota Supreme Court, Appendix A-1

¹⁸ Information from Bureau of Criminal Apprehension, Appendix A-3.

¹⁹ Id. (Another 2,185 arrests for these offenses appeared in the criminal history repository but did not contain convictions. Law Enforcement does have access to these "open arrests" and can use the information in conjunction with other factors to determine whether to issue a gun permit. However the FBI could not use an arrest to stop a purchase without proof of the ultimate conviction.)

²⁰ MN Office of Justice Programs: Interagency Task Force on Domestic Violence and Sexual Assault. Report to the Legislature-January 2004. Available at: http://www.dps.state.mn.us/OJP/IATF/IATF_Report_04.pdf.

Addenda

Minnesota Bureau of Criminal Apprehension

Citizens for a Safer Minnesota Data Request				
May 2002 - May 2003				
Minn. Stats. 609.224.1 and 609.2242.1				
County Name	County ORI	Arrest with Convictions	Convictions Not on the Record (Suspense)	Fingerprint cards w/o Conviction (Open Arrests)
Aitkin	1	1		3
Anoka	2	39		467
Becker	3	16	2	
Beltrami	4	8	1	5
Big Stone	6	1		
Blue Earth	7	15	1	3
Brown	8	9		5
Carlton	9	2		12
Carver	10	39	2	8
Cass	11	8	2	4
Chippewa	12	2		4
Chisago	13	5	8	5
Clay	14	14	2	2
Clearwater	15	2	1	
Cook	16	2	1	1
Cottonwood	17	1		3
Crow Wing	18	6	1	4
Dakota	19	59	11	286
Dodge	20	4		8
Douglas	21	13	1	
Faribault	22		1	12
Filmore	23	7		3
Freeborn	24	11		
Goodhue	25	14	3	38
Grant	26	1		
Hennepin	27	67	8	241
Houston	28	12	1	1
Hubbard	29	1		5
Isanti	30	17	4	29
Itasca	31	17	1	5
Jackson	32	5		2
Kanabec	33	7	3	3
Kandiyohi	34	37	3	4
Kittson	35	1		1
Koochiching	36	6		
Lac Qui Parle	37		1	3
Lake	38	4	2	1
Lake of the Woods	39			1
LeSueur	40	5		
Lincoln	41	1		
Lyon	42	3	1	1
McLeod	43	14	1	45
Mahnomen	44	3	5	8
Marshall	45			3

Minnesota Bureau of Criminal Apprehension

County Name	County ORI	Arrest with Convictions	Convictions Not on the Record (Suspense)	Fingerprint cards w/o Conviction (Open Arrests)
Martin	46	6		5
Meeker	47	5	1	2
Mille Lacs	48	8	4	1
Morrison	49	4	1	21
Mower	50	4		52
Murray	51			3
Nicollet	52	5		2
Nobles	53	4		
Norman	54	4		7
Olmsted	55	47	12	94
Otter Tail	56	15		3
Pennington	57	4	1	
Pine	58	11		17
Pipestone	59	2		1
Polk	60	3		1
Pope	61	7		1
Ramsey	62	23	7	325
Red Lake	63	2		
Redwood	64	13	1	5
Renville	65	9		2
Rice	66	15	2	45
Rock	67			1
Roseau	68	2		1
St Louis	69	50	6	167
Scott	70	44	5	63
Sherburne	71	17	7	22
Sibley	72	8		5
Stearns	73	14		5
Steele	74	6	1	3
Stevens	75	5		
Swift	76	7		3
Todd	77	20		1
Traverse	78	1		
Wabasha	79	5	1	4
Wadena	80	3		1
Waseca	81	12	1	
Washington	82	19	2	5
Watsonwan	83	2	5	5
Wilkin	84			1
Winona	85	11	5	1
Wright	86	48	4	83
Yellow Medicine	87	2	3	
State Patrol	MHP	3	1	1
TOTAL		949	137	2185

T case type misdemeanor case dispositions on statutes 609.2242s1 and 609.224s1 May 1, 2002 - April 30, 2003

	DISTRICT										Total
	1	2	3	4	5	6	7	8	9	10	
Convicted/guilty	247	306	194	732	90	98	253	54	127	309	2,410
Deferred/diverted	0	0	0	0	0	0	0	0	2	0	2
Adjudication withheld/Stay of Adjud	40	0	13	12	16	1	6	13	14	61	176
Continued for Dismissal	20	1	2	2	1	0	15	1	6	12	60
Dismissal	16	0	0	0	1	0	0	0	0	0	17
Total	323	307	209	746	108	99	274	68	149	382	2,665

K case type misdemeanor case dispositions on statutes 609.2242s1 and 609.224s1 May 1, 2002 - April 30, 2003

	DISTRICT										Total
	1	2	3	4	5	6	7	8	9	10	
convicted/guilty	109	81	91	150	41	41	82	26	53	106	779
Deferred	0	0	0	0	0	0	0	0	0	0	0
Adjudication Withheld	10				3	1	2	6	2	19	43
Continued for Dismissal	2				1				1	1	5
Dismissal	0	0	1	3						2	6
	121	81	92	153	45	42	84	32	56	128	833

Total misdemeanor case dispositions on statutes 609.2242s1 and 609.224 with Domestic Casetype May 1, 2002 - April 30, 2003

	DISTRICT										Total
	1	2	3	4	5	6	7	8	9	10	
Convicted/guilty	356	387	285	882	131	139	335	80	180	415	3,189
Deferred/diverted	0	0	0	0	0	0	0	0	2	0	2
Adjudication withheld/Stay of Adjud	50	0	13	12	19	2	8	19	16	80	219
Continued for Dismissal	22	1	2	2	2	0	15	1	7	13	65
Dismissal	16	0	1	3	1	0	0	0	0	2	23
Total	444	388	301	899	153	141	358	100	205	510	3,498

The Government Response to Domestic Violence Against Refugee and Immigrant Women

Obstacles to Safety for Battered Refugee and Immigrant Women

1. **Language barriers and lack of interpretation services** at all levels of government and government-funded agencies, including the justice system, public benefits offices, medical institutions and shelters, impede access to services and affect the quality of services.
2. **Battered immigrant women's fear of deportation and of government and legal systems** makes them less likely to access services, including emergency services such as 911, shelters and emergency medical care when they are seriously injured or in danger.
3. **Cultural and community pressures within immigrant groups** serve to shame women into silence and isolate them from help and services.
4. **Obstacles in the law and its implementation** present needless barriers to immigrant women's access to safety for themselves and their children.
5. **Lack of adequate funding** for services for battered women has a disproportionate impact on immigrant women.

Immediate Needs

1. **Increased access to interpretation services** at all levels of government and government-funded agencies, including the justice system, public benefits offices, medical institutions and shelters.
2. **Education and outreach to immigrant women** about their rights under the law and about government services which exist to promote safety from violence and accountability for violence offenders.
3. **Education and outreach to immigrant communities and community leaders** about Minnesota law and the fundamental human right to be free from violence.
4. **Training for government employees and service providers** about the obstacles facing battered immigrant women and the laws which exist to promote their safety.
5. **Adequate funding** for services for battered women.

**The Government Response to Domestic Violence
Against Refugee and Immigrant Women in the
Minneapolis/St. Paul Metropolitan Area:
A Human Rights Report**

December 10, 2004

A Publication of Minnesota Advocates for Human Rights

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MINNESOTA



**ADVOCATES
FOR HUMAN RIGHTS**

*The Government Response to Domestic Violence Against Refugee and Immigrant Women in the
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I. PREFACE

Minnesota Advocates is releasing this report as part of its celebration of Human Rights Day, December 10, 2004, the 56th anniversary of the Universal Declaration of Human Rights. Through its membership in the United Nations and ratification of subsequent treaties, the United States committed itself to protecting certain fundamental rights of persons within its jurisdiction. These rights include the right to life and security of person, the right to equal protection of the laws and the right to a remedy for the violation of rights. In the last year and a half, Minnesota Advocates has investigated governmental efforts to promote and protect these rights in their response to battered immigrant women in the Minneapolis/St. Paul metropolitan area.

With this report, Minnesota Advocates highlights many of the innovative programs and legislative initiatives that advance the safety of battered refugee and immigrant women in our community and the prosecution of their abusers. The report finds that battered refugee and immigrant women in the Twin Cities area nevertheless face serious obstacles in accessing protection from domestic violence and government services, and in pursuing accountability for their abusers. These obstacles include the following:

1. language barriers and inadequate access to interpretation services;
2. barriers from within immigrant communities that impede government effectiveness;
3. fear of government institutions and immigration authorities;
4. inadequate funding of necessary services and programs;
5. delays in the provision of services;
6. ineffective screening of individuals seeking assistance;
7. poor documentation of domestic violence crimes and injuries;
8. inadequate record-keeping;
9. inadequate coordination of services across government systems; and
10. limited access to culturally-specific programming.

Minnesota Advocates' findings are derived from over 150 interviews, primarily in Hennepin and Ramsey Counties, with judges, lawyers, prosecutors, public defenders, advocates, probation officers, immigration officials, medical service providers, interpreters, child protection employees and others regarding their interaction with refugee and immigrant women who have been battered.

This report includes an analysis of governments' compliance with their obligation to protect the human rights, safety and security of refugee and immigrant women who are victims of violence. Minnesota Advocates looks forward to working together with community leaders to address the issues identified in the report and to improve our community's response to battered immigrant women.

Robin Phillips
Executive Director

Cheryl Thomas
Women's Program Director

II. EXECUTIVE SUMMARY

Violence against women is the greatest human rights scandal of our times ...

Violence against women is not confined to any particular political or economic system, but is prevalent in every society in the world and cuts across boundaries of wealth, race and culture. The power structures within society which perpetuate violence against women are deep-rooted and intransigent. The experience or threat of violence inhibits women everywhere from fully exercising and enjoying their human rights.¹

Of all the forms of violence against women, domestic violence² is one of the most insidious and widespread throughout the world. Nearly one-third of American women (31 percent) report having been physically or sexually abused by a husband or boyfriend at some point in their lives.³ The Council of Europe reports that domestic violence is the major cause of death and disability for women aged 16 to 44 and accounts for more death and ill-health than cancer or traffic accidents.⁴ In 1999, the Russian government estimated that each year 14,000 women are killed by their partners or relatives.⁵ The World Health Organization has reported that around the world 10-70 per cent of women are physically assaulted by their male partners.⁶

A 2002 survey demonstrated that domestic violence victims in Minnesota accounted for 26 percent of all violent crime victims.⁷ The survey also showed that 81 percent of victims of domestic violence in Minnesota did not report one or more incidents of violence to law enforcement.⁸ The former Chief Judge of Hennepin County District Court, the largest county in Minnesota, recently stated, "Domestic violence may well be the number one issue of public safety in this state. In the last five years 132 women and 68 children under the age of 13 died because of domestic violence."⁹ A police official from St. Paul recently stated, "Domestic violence is the most frequently committed violent crime in St. Paul and by a long shot the resources are not commensurate with the frequency or nature of the problem."¹⁰

¹ Amnesty International, *It's in Our Hands: Stop Violence Against Women 1-2*. (2004).

² For the purposes of this report, Minnesota Advocates used the following definition of domestic violence expressed by the United Nations: "Domestic violence is the use of force or threats of force by a husband or boyfriend for the purpose of coercing and intimidating a woman into submission. This violence can take the form of pushing, hitting, choking, slapping, kicking, burning, or stabbing." U.N. Ctr. For Social Development and Humanitarian Affairs, *Strategies for Confronting Domestic Violence: A Resource Manual* at 7, U.N. Doc. ST/CSDHA/20 (1993). This definition reflects data indicating that women are the primary victims of domestic violence.

³ The Commonwealth Fund, *Health Concerns Across a Woman's Lifespan: 1998 Survey of Women's Health*, (1999).

⁴ *Domestic Violence against Women*, Eur. Parl. Ass., Recommendation 1582 (September 2002).

⁵ *Fifth Periodic Report of the Russian Federation*, Committee on the Elimination of Discrimination Against Women, U.N. Doc. CEDAW/C/USR/5 (1999).

⁶ *World Report on Violence and Health*. 24, World Health Organization (2002).

⁷ Minnesota Department of Public Safety, Office of Justice Programs, *Safe at Home: 2002 Minnesota Crime Survey 7* (December 2003), available at http://www.ojp.state.mn.us/cj/publications/crimesurveys/2002_Safe_at_Home.pdf.

⁸ *Id.* at 8.

⁹ Public letter from Kevin Burke, former Chief Judge, Hennepin County District Court (February 6, 2004).

¹⁰ Interview dated August 30, 2004.

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Domestic violence violates a woman's fundamental human rights, including her right to life, safety and security, her right to be free from discrimination on the basis of sex, race or national origin, her right to due process of law and her right to a remedy for harms against her. International human rights law – principles of which are reflected in the United States Constitution, civil rights law, criminal law and civil law-- mandates that governments protect individuals from violence and provide them with effective assistance and remedies when these rights are violated.

With this report, Minnesota Advocates for Human Rights (hereinafter Minnesota Advocates) examines the government response to violence against refugee and immigrant women by their intimate partners in the Minneapolis/St. Paul metropolitan area through the prism of human rights.¹¹ This report examines federal, state and local governments' responses to this violence. While all women are at risk of violence, refugee and immigrant women are particularly vulnerable to abuse¹² and less likely to access and receive government protection and services due to language barriers, fear of deportation and legal systems, community pressures, funding cuts for needed services and other obstacles that exist in the law or in the implementation of the law. As one expert in legal advocacy for refugee and immigrant women explained:

Language, culture and immigration status exacerbate the level of violence, block victims from access to information about legal remedies, and complicate their efforts to obtain the relief they need to end the violence. Culture, religion, socio-economic, and immigration status do not determine whether domestic violence will occur, but rather influence what barriers a battered immigrant women must confront, what relief she will need to obtain from the legal system or other sources, what should be included in her safety plan, what threats the abuser will use against her, and what excuses the abuser will use in an attempt to justify his violence.¹³

Minnesota has a thirty-year legacy of efforts to end domestic violence. With the introduction of the nation's first shelter for battered women in St. Paul, Minnesota in 1972 and one of the first domestic violence laws in the United States in 1979, Minnesota became a leader in advocating for the safety of domestic violence victims and accountability for their abusers. As new waves of immigrants arrive in the Twin Cities every year, it is imperative that government and community leaders review their response to domestic violence in refugee and immigrant communities and ensure that victim safety and offender accountability are made a priority.

¹¹ The Minneapolis/St. Paul metropolitan area comprises seven counties in the state of Minnesota: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.

¹² For an introduction to the forms of abuse often experienced by battered immigrant women, see the Immigrant and Refugee Power and Control Wheel attached as Appendix C to this report.

¹³ Leslye E. Orloff and Rachel Little, *Somewhere to Turn: Making Domestic Violence Services Accessible to Battered Immigrant Women* (1999), available at www.vawnet.org.

X. CONCLUSION

This report documents a complicated maze of laws and institutions that face refugee and immigrant victims of domestic violence who seek safety for themselves and their children and accountability for their abusers. Navigating these systems is proving difficult to impossible for many of these victims of violence, especially as language barriers, lack of interpretation services, community pressures, biases, lack of funding and inadequate implementation of the laws interact to further thwart women's efforts to escape violence. As immigrant communities grow, Minnesota must confront this urgent situation. Unless careful attention and resources are paid to making legal remedies and services more accessible and effective for refugee and immigrant women, government institutions risk isolating entire communities of women and being complicit in this debilitating form of violence.

All parts of the community should jointly commit to a new vision of a more effective government response to domestic violence in refugee and immigrant communities. This vision should include an efficient police response to calls reporting assaults and violations of Order for Protection—supported by adequate interpretation services to accurately describe the crime scene and enable effective prosecution of crimes. This vision should include competent and complete interpretation services throughout the justice system so that risks can be assessed accurately, offenders are treated appropriately and women's right to custody of their children is not jeopardized by misinformation. This vision should include an improved level of understanding among all levels of government employees about legal remedies, financial benefits and services which are available by law to immigrant victims of violence. Finally, this vision should include medical, community advocacy and shelter services with trained employees who have access to interpretation services so that they can, understand, serve and treat women who do not speak English.

Minnesota has an international reputation and proud history of leadership in addressing domestic violence. This state's legal reform, community organizing, shelter services and battered women's advocacy programs are models around the world for those seeking to confront domestic violence in their own communities. The new challenge is to make these successes relevant in the lives of battered refugee and immigrant women in Minnesota.

XI. Recommendations

A. For the Minnesota Governor, State Officials and State Legislature

Improve Services to Battered Immigrant Women in the Areas of Court Interpretation, Shelters, Law Enforcement, Legal Services, Probation and Child Protection Services by Adequately Funding the Following Programs

- Enable the Minnesota Court Interpreter Program (the Program) to develop and administer a certification exam in languages that are commonly used in the Minneapolis/St. Paul metropolitan area as soon as possible, e.g., Amharic and Oromo. Enable the Program to develop additional certification examinations in languages for which there is currently only one examination available, e.g., Somali, Hmong, Lao, Bosnian and Vietnamese. Enable the Program to provide tuition scholarships for interpreter candidates to attend the University of Minnesota program for education in translation and interpretation. Such scholarships should be provided for candidates who speak high-need languages such as Somali, Oromo, Amharic, and Hmong. Enable the Program to establish a court interpreter monitoring program that might include the shadowing of certified and roster interpreters, review of audio tapes of court interpretation and preparing evaluations of court interpreters.
- Make it possible for metropolitan area domestic violence shelters to be able to provide adequate services to battered immigrant women seeking shelter, including interpretation services when necessary.
- Enable law enforcement agencies to adequately staff domestic violence units so that they can effectively respond to the high level of domestic violence crimes in the metropolitan area. Enable law enforcement officials to obtain interpretation services at the scene of an assault, during detention and during investigation.
- Facilitate training of law enforcement personnel to effectively respond to domestic violence cases involving immigrants.
- Expand coverage of interpretation services for all medical assistance recipients with limited English proficiency, so that they may receive interpretation during services that are ancillary to the person-to-person health care service, such as requesting prescriptions and making appointments.
- Aid court staff and services in their efforts to assist limited English proficient women seeking safety from violence. Enable counties to staff domestic abuse centers with an adequate number of advocates, attorneys and other staff members to provide essential court services to assist limited English proficient women who are seeking protection from violence.

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- Assist government-funded medical institutions in the development of domestic violence programming and in the provision of appropriate medical care and interpretation and translation services for immigrant domestic violence victims. Aid these institutions in the development of institution-wide protocols for domestic violence screening and for training of medical professionals.
- Ensure sustained and adequate funding for Minnesota public defenders and legal aid offices in order to improve legal representation for battered immigrant women. Battered immigrant women often cannot afford private legal representation and have difficulty navigating legal systems and forms of legal relief that may be foreign to them. Legal representation for these women is often necessary for them to access civil and criminal legal remedies or to avail themselves of protections available under the law.
- Enable probation authorities and community organizations to develop and support bilingual and culturally-appropriate rehabilitation services and treatment programs for limited English proficient perpetrators of domestic violence. These programs are vital to ensuring that immigrant domestic violence offenders have adequate access to rehabilitation services and treatment programs.
- Assist Child Protection Services in providing immigrant, limited English proficient parents in the child protection system with culturally-appropriate and bilingual versions of programs they must attend in order to comply with their case plans and retain custody of their children. These programs are essential for battered immigrant mothers to attend and benefit from the programs required by Child Protection case plans.

Access to Interpreters for Victims and Witnesses During Court Proceedings

Ensure that victims and witnesses have full access to interpretation services during all criminal court, order for protection and child protection related proceedings.

Law, Policy and Procedure Concerning the Mandatory Reporting of Child Neglect in Domestic Violence Cases

Initiate a review of law, policy and procedure concerning the mandatory reporting of child neglect in cases involving domestic violence to ensure that immigrant children are not placed in the child protection system in cases in which their health and safety are not endangered.

Domestic Violence Shelter and/ or Improved Community Advocacy Services for East African Women

Review the need for improved services for East African women whether they be provided by establishing a community-specific shelter and/or through community advocacy programs.

Certification Program for Medical Interpretation

In collaboration with the National Council for Interpreting in Health Care, establish a Code of Professional Responsibility for Medical Interpreters and a program by which medical interpreters can be certified and sanctioned by the state.

Violence Against Women Act Self-Petitioners' Eligibility for Driver's Licenses

Include the *prima facie* determination notice received by Violence Against Women Act self-petitioners as one of the approved documents that a person may use to obtain a state identification or license.

Eviction of Domestic Violence Victims/Rehabilitation of Housing Records

Take action to prevent Minnesota landlords from enforcing housing policies that declare 'zero tolerance' for domestic violence (resulting in the eviction of domestic violence victims because of domestic violence incidents at their homes or 911 calls to police because of violence). Take action to enable battered immigrant women to rehabilitate their housing records following an eviction by a landlord because of events of domestic violence occurring at her residence.

Education Efforts on Immigration, Family and Public Benefits Law

Sponsor workshops to build the support structure for battered immigrant women in their own communities, including training on legal systems in Minnesota and clinical legal education for members of immigrant communities.

B. For Law Enforcement and Jails

Law Enforcement Access to Interpretation Services Prior to Arrest

In cases involving limited English proficient individuals, require police officers to obtain interpretation services at the scene of a reported assault. In addition, review procedures by which police officers receive authority to access interpretation services so that such procedures do not impede their access to such services.

Law Enforcement Access to Interpretation Services Prior to Writing Incident Report

In cases involving limited English proficient individuals, require police officers to obtain interpretation services before writing an incident report to fully comply with Minnesota Statute 629.341, subdivision 4, and the obligation to file a report in cases involving domestic abuse. Police officers should be trained about the particular importance of incident reports in cases involving limited English proficient individuals.

Response Time

Undertake a review of policy and procedure aimed at improving response time to calls reporting domestic violence and to calls reporting violations of Orders for Protection (OFPs), in view of the research that shows that the existence of an OFP is one of the most significant predictors of risk for victims.

Pursuit of Those Who Violate Orders for Protection and Leave the Scene

Institute policies and procedures aimed at improving the response to reports of domestic violence offenders who leave the scene of a domestic violence crime or violation of an OFP.

Procedures and Policies Regarding Interpretation in Jails

In order to comply with obligations under state and federal law, implement policies and procedures that ensure immediate access to interpreters for limited English proficient individuals who are being detained.

Policies Concerning Removing Immigrant Children from their Homes

Review policies and practices concerning the removal of immigrant children from the home in cases involving domestic violence in view of research showing that children should remain in the care of the non-offending parent whenever possible.

Interpretation Provided by Family, Friends or Others at the Scene of a Domestic Assault

In cases involving limited English proficient individuals, do not rely exclusively on family, friends or others at the scene of an assault to interpret for the assault victim(s) or perpetrator(s). Never rely on children to provide interpretation services at the scene of an assault.

Compliance with Standards for Report Writing

Improve report writing by following guidelines outlined in the report entitled, *Case Processing of Misdemeanor Domestic Violence Cases: Initial Police Response to Arraignment* (2000 Battered Women's Justice Project).

Bilingual Law Enforcement Personnel

Recruit and train bilingual personnel from the most populous immigrant communities in the metropolitan area in order to decrease fear of law enforcement in immigrant communities.

Public Awareness about Immigration (or Separation) Ordinances Passed by Minneapolis and St. Paul

Conduct town hall meetings to introduce the immigration or separation ordinances passed by Minneapolis and St. Paul to the most populous immigrant communities. These ordinances restrict law enforcement's ability to inquire about immigration status while providing needed government services.

C. For Prosecutors

Contact with Victims

In accordance with recommendations outlined in the report entitled *Case Processing of Misdemeanor Domestic Violence Cases: Initial Police Response to Arraignment* (2000 Battered Women's Justice Project), assess current practices to ensure that contact with the victim is undertaken in a coordinated and efficient manner that maximizes victim safety and best contributes to an effective prosecution of the case.

Availability of Risk Assessment

In all domestic violence cases, including those involving limited English proficiency parties, ensure that a risk assessment is available to the court during pre-trial proceedings.

Prosecutor Training on Language Access and Legal Issues Affecting the Prosecution of Domestic Violence Crimes Involving Limited English Proficient Individuals

Provide prosecutors with training in language, cultural, and legal issues that may affect the prosecution of domestic violence cases. This should include training on the Violence Against Women Act and immigration law and policy.

Perpetrator Accountability for Continued Family Violence

Continue efforts to prosecute domestic assault cases without the cooperation of the victim. Under Minnesota Statutes 260C.335 and 260C.425, explore filing civil petitions and criminal complaints against domestic violence perpetrators whose violent behavior contributes to the need for protection or services of a child.

Communication of the Interpreter Role

During the pre-trial and investigation process, when using interpreters, clarify the interpreter role for limited English proficiency victims or witnesses.

Procedural or Legal Barriers to Communication with Victims of Domestic Violence Crimes

Assess procedural or legal barriers to prosecutors' ability to contact and communicate with limited English proficient victims, such as requirements that victims/witnesses provide social security numbers before they can be reimbursed for expenses incurred due to contact with the prosecutor's office.

Translation of All Documents Sent to Limited English Proficient Victims and Witnesses

Ensure that all documents which prosecutors or their agents send to limited English proficient victims and witnesses are translated into the appropriate language.

D. For Court Administrators

Evaluation of Language Proficiency and Interpreting Skills for Roster Interpreters

Improve qualification standards for inclusion on the Minnesota Court Interpreter Roster. For interpreters seeking inclusion on the Court Interpreter Roster, administer an evaluation of the candidate interpreter's language proficiency and basic interpretation skills. Such evaluation could be based on the American Council on the Teaching of Foreign Languages Certified Testing Program (ACTFL) or on the evaluation employed by the University of Minnesota Language Center. Alternatively, roster interpreters should be required to complete a course that demonstrates language proficiency and interpretation skills, e.g., the University of Minnesota Certificate Program in Interpreting, or a program requiring shadowing an experienced court interpreter for a period of time and completing a certain number of supervised interpretation appointments.

Disciplinary Body/System for Court Interpreters

Establish an effective disciplinary system by which (1) participants in a court proceeding may comment on interpreter conduct and (2) interpreters who violate the Code of Professional Responsibility for Interpreters may be disciplined and/or removed from the list of Certified or Roster Court Interpreters.

Recruitment of Interpreters (Especially Women)

Recruit additional interpreter candidates to take the court interpreter certification exam, especially female interpreter candidates.

Qualified Interpreter Assistance with Completion of Order for Protection Petitions

Provide limited English proficient women with qualified interpreter assistance in completing OFP petitions.

Communication between Courts and Jails Regarding Proceedings Involving the Same Party

Take steps to improve communication between courts and jails regarding proceedings that involve the same party. By doing so, family court and criminal court will be able to make more informed decisions about issues including risk of violence and child custody. This communication will also allow family courts to take into account the detention of a party by criminal justice authorities.

Court Delays

Take effective measures to request and provide interpretation services as promptly as possible in order to avoid delays in court proceedings for limited English proficient individuals for whom attendance at the proceeding may be a hardship.

Policy of Providing Single Interpreter for Opposing Parties in Domestic Violence Related Proceedings/Court Interpreter Best Practices

Consider amending the current policy derived from the Court Interpreter Best Practices Manual that provides a single interpreter for opposing parties in court proceedings involving domestic violence, except when counsel requests additional interpreters. Administrators should consider appointing two interpreters, one for each party, in civil and criminal proceedings involving domestic violence.

Response to Requests for Female Interpreters

Take measures to more effectively respond to requests for female interpreters by limited English proficient women accessing the court system to gain protection from violence.

Procedure for Communicating Interpreter Role to All Participants in Court Proceedings

Institute a procedure for communicating the role of the interpreter to all participants of court proceedings either through the court clerk or judicial officer.

Translation of Documents Relating to Court Proceedings for Limited English Proficient Individuals

Ensure that documents provided or sent by the court to limited English proficient individuals are translated into the appropriate languages.

Interpreter Training in Legal Process and Vocabulary

Provide state roster interpreters who work as officers of the Minnesota courts with training regarding legal procedures and vocabulary beyond the six-hour orientation program currently provided. Consider providing training in domestic violence issues for all court interpreters.

E. For Courts and Judges

Judicial Inquiry into Adequacy of Interpretation Services

In criminal cases where either party has limited English proficiency, request information regarding interpretation services available to both the offender and the victim at the time of arrest, during the investigation and throughout the pre-trial proceedings. To the extent they are relying on such information for their decisions regarding risk analysis, bail evaluation and release of offenders, judges should assess whether interpretation services were adequate during those stages.

Review of Family Court Settlement Agreements and Judgments and Decrees

In cases involving individuals with limited English proficiency, review all settlement agreements and proposed judgments and decrees with limited English proficient parties to ensure that the parties understand the terms contained in the documents. At a minimum, judges should require the parties to file Affidavits of Translation along with all filed settlement agreements and proposed judgments and decrees. The Affidavits of Translation should attest to the fact that the document filed with the court was translated from English to the party by someone fluent in both English and the party's native language.

Policies Regarding the Lifting of No Contact Orders

Do not lift no contact orders without consultation with prosecutors and probation officers.

Risk Assessment During Pre-trial Proceedings

Require a risk assessment in pre-trial proceedings in all domestic violence cases, including cases where the parties have limited English proficiency.

Referral of Domestic Violence Cases to Restorative Justice Programs

Do not refer domestic violence cases involving limited English proficient individuals to restorative justice or community-based justice programs until there is further research on the effectiveness of these programs for these communities.

Judicial Statement of Interpreter Role

In both civil and criminal cases, during court appearances where interpreters are present, begin court proceedings with a statement of the interpreter's proper role in the courtroom. This statement should be addressed to all parties, attorneys, and criminal justice personnel.

Avoiding Interpreter Bias

Take steps to be aware of possible interpreter bias in domestic violence cases involving limited English proficient women and to ensure that any bias does not interfere with the administration of justice. Such steps should include asking interpreters about their experience and possible

conflicts in the case prior to any appearance or hearing. Judges should use all available resources to evaluate the performance of an interpreter, including the opinion of bilingual advocates for survivors who attend the proceedings. If bias is detected, judges should immediately disqualify the interpreter for purposes of the proceeding under Rule 8.03 of Minnesota General Rules of Practice for the District Courts (Title I Rules Applicable to All Court Proceedings).

Court Requests for Female Interpreters

Use female interpreters whenever possible when requested in domestic violence cases involving limited English proficient women.

Interpretation Services at Time of Issuance of Order for Protection

Require interpreters appointed to interpret at an OFP hearing to remain available to interpret the order at the time it is issued, so that the interpreter may translate the order for limited English proficient parties and facilitate the correction of mistakes or the elimination of confidential information included in the order.

Juvenile Court Judges' Issuance of No Contact Orders

In Child in Need of Protective Services cases involving domestic violence, the juvenile court bench should issue no contact orders against domestic abusers, thereby relieving the battered survivor of the decision whether to seek an OFP. It may be necessary for the juvenile court to first adjudicate the abuser as a parent so as to obtain jurisdiction over a domestic abuser in a Child in Need of Protective Services case.

F. For Probation Authorities

Probation Officer Training on Language Access and Legal Issues Affecting Limited English Proficient Individuals

Provide probation officers with training in language, cultural and legal issues that may affect clients and victims who are limited English proficient. This should include training in immigration law and policy and the Violence Against Women Act.

Translation of Documents Sent by Probation Officers for Limited English Proficient Individuals

In cases involving limited English proficient individuals, ensure that all documents sent to victims are translated into the appropriate language.

G. For Child Protection Services

Availability of Interpretation Services and Language-Appropriate Documentation during Evaluation of Child Endangerment and Child Protection Investigations

Evaluate child endangerment at the scene of a domestic assault or in a subsequent investigation with the assistance of a neutral and qualified interpreter. Ensure that immigrant families are not placed in the Child Protection System unnecessarily and that law enforcement will not take

children into custody away from battered mothers when it is not in the best interest of the children.

Inclusion of Orders for Protection Among Case Plan Requirements in a Child in Need of Protective Services Case

Do not require a battered immigrant mother to obtain an OFP in connection with a Child in Need of Protective Services Case. Protection orders may not be a safe option for all battered mothers and may be particularly difficult for immigrant women to obtain because of the deportation consequences of a violation of the order.

Training for Child Protection Services Personnel

Provide training for Child Protection Services personnel on the cultures of the largest immigrant groups established in the metropolitan area, and the immigration issues that members of these groups may face.

H. For State Government Assistance Agencies

MFIP Worker Training Concerning Immigrant Domestic Violence Victims' Eligibility for Public Benefits under the Violence Against Women Act

All Minnesota Family Investment Program (MFIP) workers should receive training concerning the *prima facie* Notice received by Violence Against Women Act self-petitioners from the Vermont Service Center of U.S. Citizenship and Immigration Services. This notice entitles its recipients to MFIP and other government assistance.

Domestic Violence Screening for Minnesota Family Investment Program (MFIP) Applicants

MFIP administrators should implement a program by which a domestic violence advocate will screen all MFIP applicants for eligibility for the MFIP family violence waiver.

Distribution of Information Concerning Domestic Violence Resources

Service organizations, including refugee resettlement agencies, should integrate basic domestic violence information such as the definition of domestic violence (with examples, including examples of mental abuse), the fact that it is illegal, and how women can get help, in all of their programs. Service organizations should also disseminate basic information on housing rights.

I. For Medical Institutions

Availability of Interpretation Services in Hospital Emergency Rooms in High-Need Languages

Increase hiring of interpreters, especially for the Amharic, Oromo and Hmong languages.

Bilingual Employees and Domestic Violence Screening in General Medicine and Emergency Departments

Hospitals should employ a greater number of bilingual employees from various immigrant communities to improve the cultural accessibility of the medical services an institution provides

December 10, 2004

A Publication of Minnesota Advocates for Human Rights

and to identify domestic violence cases among immigrant women more easily. Greater identification of domestic violence situations will enhance the government's ability to prevent further violence and will enable medical professionals to direct immigrant women to domestic violence resources in the Minneapolis/St. Paul community.

Dissemination of Information about Domestic Violence and Appropriate Resources

As part of an institution-wide protocol for responding to patients who may be domestic violence victims (see recommendation for Minnesota legislature above), disseminate domestic violence information through multiple avenues including brochures about child health or basic health information, enabling women to receive this information without it being obvious to their batterers.

J. For Shelter Managers

Timely Provision of Interpretation Services to Limited English Proficient Shelter Residents

Provide improved shelter access to women from immigrant communities. In connection with these efforts, shelters should develop a clear policy on when to call for interpretation services, and should develop a list of qualified interpreters together with other area shelters.

Training of Domestic Violence Shelter Advocates

Provide staff with additional training on cultural and legal issues affecting battered immigrant women, including information on the forms of immigration relief that are available for battered immigrant women in the United States.

K. For Federal Legislative Authorities

Violence Against Women Act Self-Petitioner Eligibility for Employment Authorization

Make Violence Against Women Act self-petitioners eligible to apply for employment authorization upon receipt of a *prima facie* notice from the immigration authorities.

Eligibility for Immigration Relief under the Violence Against Women Act

Amend the Violence Against Women Act to make individuals who enter into custom marriages, unmarried victims of domestic violence and spouses of student visa recipients eligible for immigration relief.

Perpetrators of Domestic Violence Misdemeanors and Immigrants Who Violate Orders for Protection Are Deportable Aliens

Review Section 237 (a)(2)(E) of the Immigration and Nationality Act and consider whether perpetrators of domestic violence misdemeanors and violations of Orders for Protection (OFPs) should be deportable if they do not fall within other categories of deportable aliens (e.g., perpetrators of aggravated felonies, certain firearm offenses and crimes of moral turpitude). This provision is responsible, in part, for immigrant survivors' reluctance to report misdemeanor level domestic violence offenses and violations of OFPs.

Undocumented Battered Women's Eligibility for Medical Assistance

In order to ensure a continuum of medical care for battered immigrant women that will permit identification of the abuse and documentation of their injuries, amend federal law to permit the State of Minnesota to provide General Medical Assistance to battered immigrants.

The Women Immigrants Safe Harbor Act

Enact the Women Immigrants Safe Harbor Act (WISH), which would expand battered immigrant women's eligibility for certain public benefits. WISH would exempt battered immigrant women who apply for immigration relief under the Violence Against Women Act or U-visas from the deeming rules enacted under the Illegal Immigration Reform and Responsibility Act and the public charge test applied by the immigration authorities at the time of application for permanent residency. WISH is endorsed by the National Immigration Law Center and Legal Momentum. For more information about WISH, please see the website of the National Immigration Law Center at http://www.nilc.org/immspbs/cdev/wish/WISH_Sec-by-Sec_4-04.pdf.

Restrictions on Legal Service Organizations That Prevent the Provision of Services to Undocumented Battered Women

Remove restrictions on legal aid organizations so that they can represent battered immigrants, including Violence Against Women Act Self-Petitioners or U-visa applicants. Under Section 504(a)(18) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, legal aid organizations that are funded by the federal Legal Services Corporation (LSC) are prohibited from representing most undocumented individuals, regardless of whether the funds used are LSC or non-LSC funds.

L. For Federal Immigration Authorities

Immigration Relief under the Violence Against Women Act and the Victims of Trafficking and Violence Protection Act

Take measures to expedite the adjudication of immigration relief under the Violence Against Women Act and the Victims of Trafficking and Violence Protection Act at the Vermont Service Center.

Review of Domestic Violence Issues Adjudicated by the Vermont Service Center

The Office of Chief Counsel for Immigration and Customs Enforcement and the Examinations Office of U.S. Citizenship and Immigration Services located in the Bloomington, Minnesota should cease their improper review of domestic violence issues already adjudicated by the Vermont Service Center in connection with a self-petition under the Violence Against Women Act. Should these offices have concerns about the determination made by the Vermont Service Center that leads the office to "reasonably believe that a self-petition should be revoked," they should follow the appropriate procedure for notifying the Vermont Service Center about their concerns in accordance with the 2002 Memorandum from the Department of Justice regarding "Revocation of VAWA-Based Self-Petitions."

Policy Memorandum on Public Assistance Guaranteed Under the Violence Against Women Act

Produce a policy memorandum explaining Violence Against Women Act self-petitioner eligibility for public benefits. This memorandum could be used by petitioners, their attorneys or their advocates in their interactions with government employees charged with disbursing public benefits.

Adjudication of the Domestic Violence Waiver Application Filed in Respect of a Petition to Remove Conditions to Permanent Residency

Transfer to the Vermont Service Center all adjudication of the Domestic Violence Waiver applications filed in respect of petitions to remove conditions to permanent residency. Officers at the Vermont Service Center who have had the benefit of domestic violence training are the appropriate immigration officials to adjudicate these applications.

Training for Immigration Officers and Attorneys

Provide additional training for immigration officials and attorneys who investigate or litigate cases involving domestic abuse, or adjudicate applications for immigration relief based on domestic abuse, battering or extreme cruelty, including applications filed under the Violence Against Women Act and the Victims of Trafficking and Violence Prevention Act.

***Prima Facie* Determination Notice**

Amend the format for the *prima facie* determination notice of eligibility for public benefits. The format should be distinct from the format of a receipt for documentation. The *prima facie* determination notice should include the children listed on the self-petition of the mother, so that it is clear to county government assistance workers that the children are eligible for public benefits.

Transparency of Adjudication of Immigration Relief for Battered Immigrants and Availability of Information Concerning the Applications for this Relief

Improve the transparency of the process by which battered immigrant women obtain immigration relief, including the adjudication of self-petitions under the Violence Against Women Act (and related adjustment of status applications), applications for U-Visas, application for cancellation of removal on the basis of VAWA and waivers of the joint petition requirement to remove conditions to residency. The immigration authorities should also improve efforts to respond to inquiries from battered immigrant women concerning the status of their pending immigration applications.

**Office of Justice Programs
Crime Victim Services**

Current Fiscal Year (2005) Funding for Grants to Serve Crime Victims

State General Fund	\$21,358,000
Shelter Services	\$16,424,000
Non-Shelter Domestic Abuse	\$2,319,000
Sexual Assault	\$1,052,000
General Crime	\$618,000
Abused Children	\$945,000

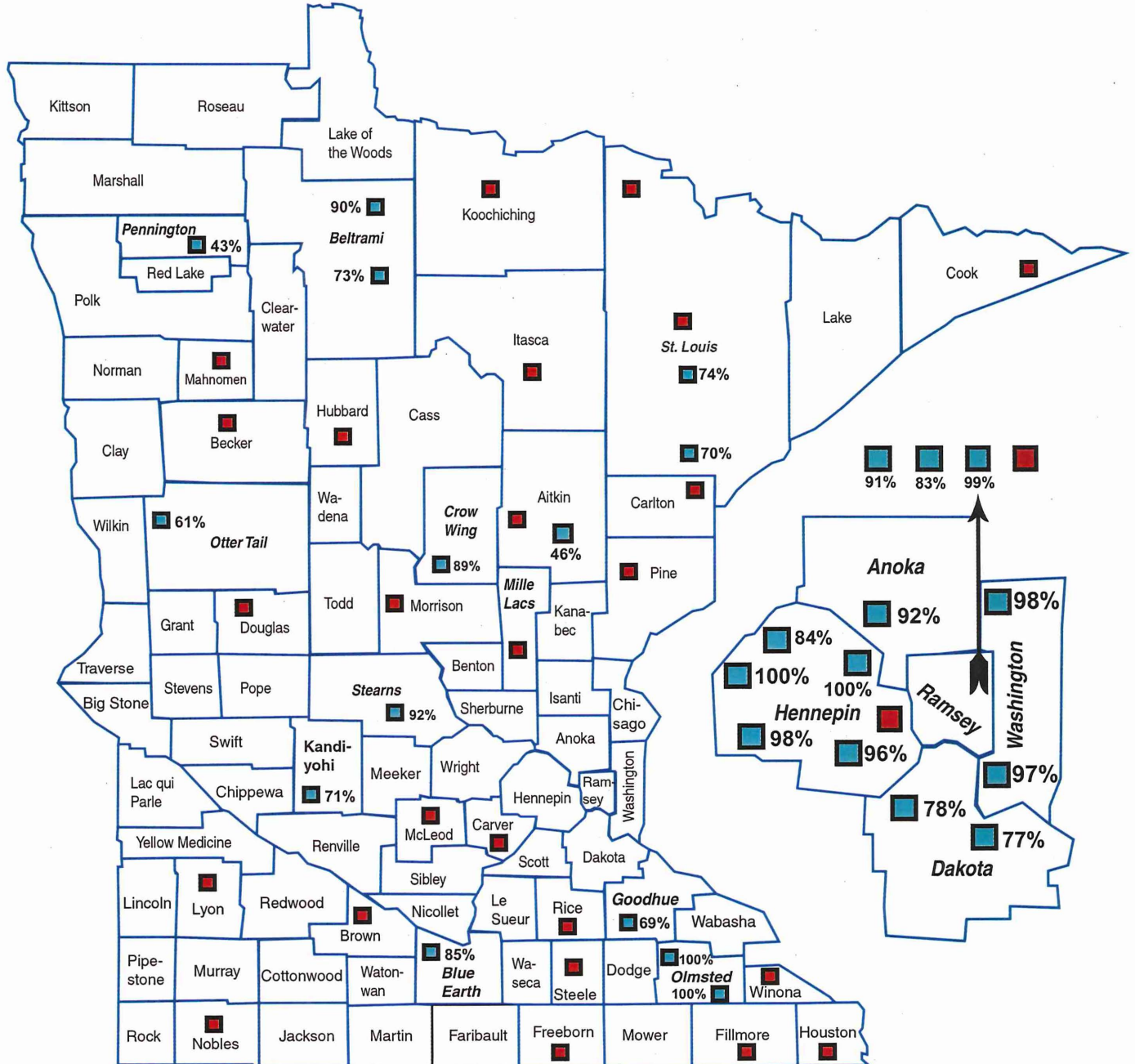
Special Revenue Fund	\$96,000
Parenting Time Visitation Centers	

Federal Funds	\$9,229,112
Victims of Crime Act	\$5,773,480
Violence Against Women Act	\$1,847,700
FVPSA	\$1,487,464
MDH	\$120,468

State and Federal Funds Serving Victims By Category	
Domestic Violence	\$23,343,185
Sexual Assault	\$3,589,207
General Crime	\$2,338,773
Abused Children	\$1,411,947

Office of Justice Programs Crime Victim Services

Battered Women Shelter Program



- Battered Women Shelter Program
- Hotel/Motel and Safehome Program not part of a shelter program

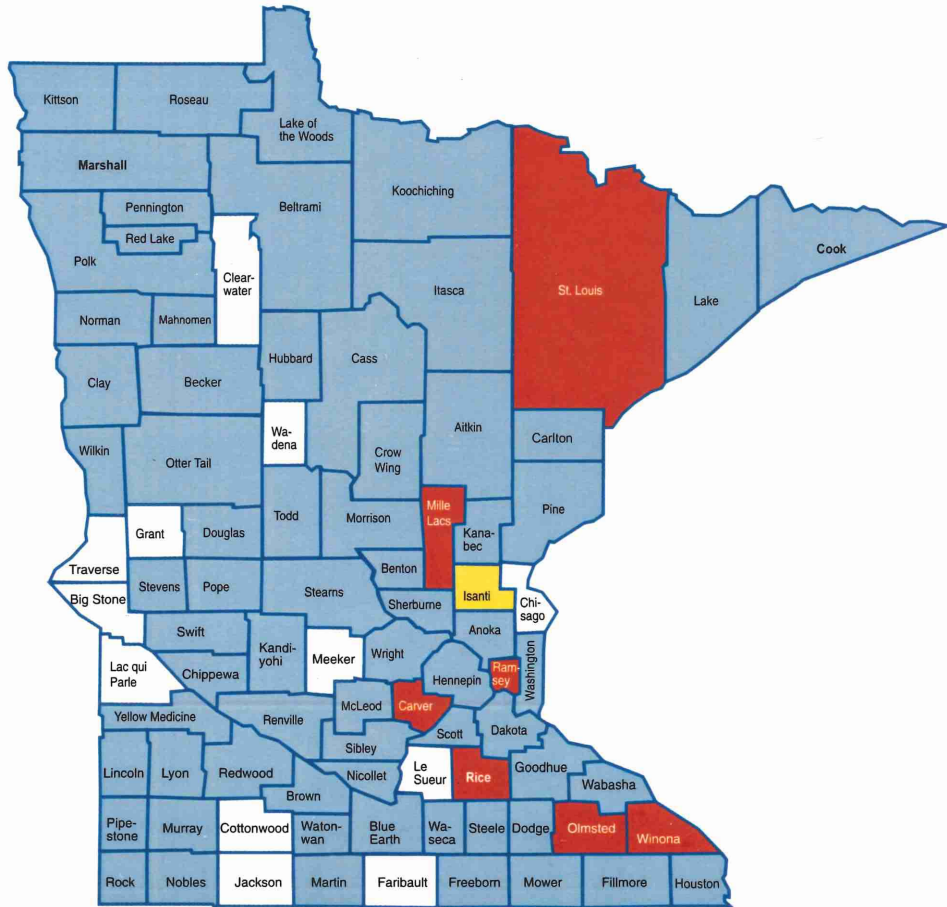
Occupancy rate averages listed above are for Fiscal Years 01 through 04
 Occupancy rate average for Fiscal Years 01 through 04: Statewide - 83.6%
 Metro - 91.8%
 Greater Minnesota - 75.9%

MINNESOTA DEPARTMENT OF PUBLIC SAFETY

Office of Justice Programs Crime Victim Services

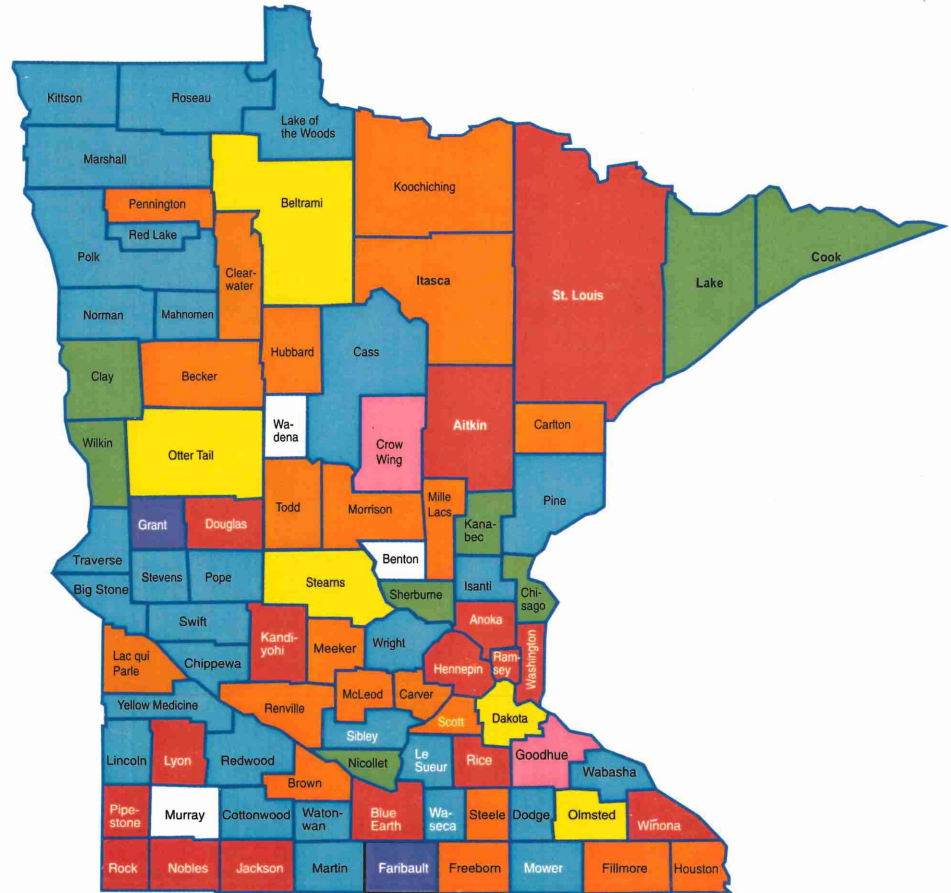
FY 05 Program Maps

SEXUAL ASSAULT PROGRAMS & SMART PROJECTS



- Sexual Assault Program
- Sexual Assault Multidisciplinary Action Team Response
- Contains Both SA & SMART Programs
- No Current SA or SMART Programs

TYPES OF DOMESTIC VIOLENCE PROGRAMS



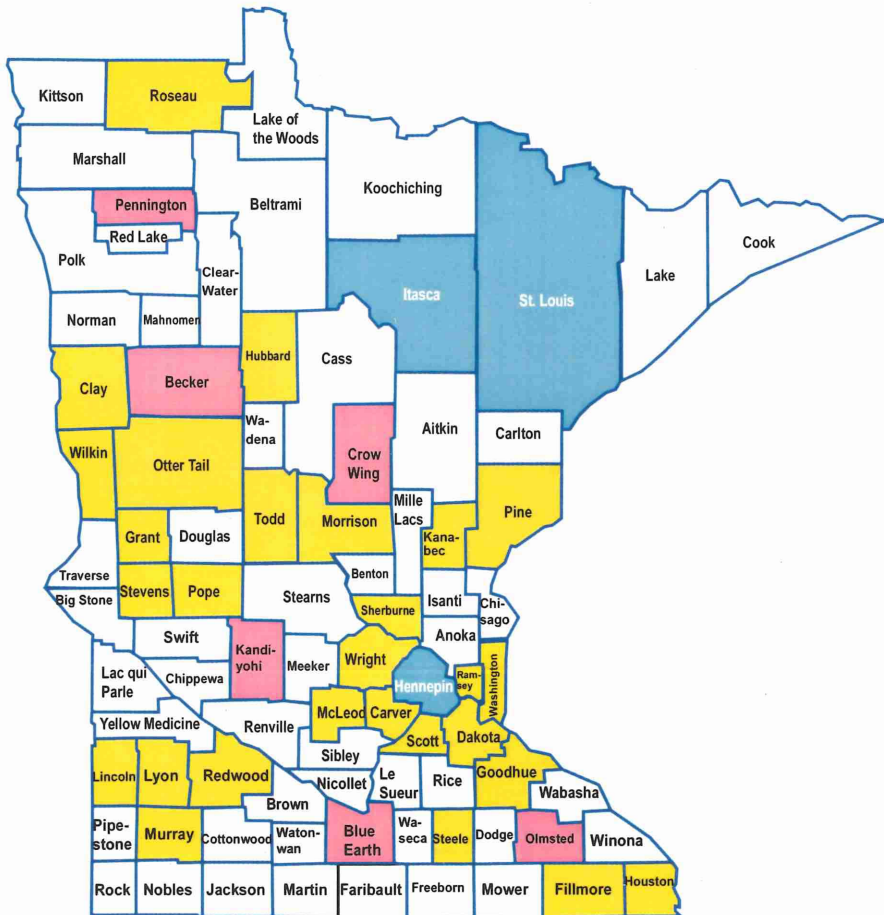
- Community Action Program (CAP)
- Criminal Justice Intervention Program (CJI)
- Shelter Program (shelter, hotel or safehome)
- CAP & CJI Programs
- CAP & Shelter Programs
- CJI & Shelter Programs
- Contains All Programs
- No Current Domestic Violence Programs

MINNESOTA DEPARTMENT OF PUBLIC SAFETY

Office of Justice Programs Crime Victim Services

FY 05 Program Maps

ABUSED CHILDREN PROGRAMS & PARENTING TIME CENTERS



- Parenting Time Centers
- Abused Children Program
- Both Parenting Time Centers and Abused Children Programs
- No Current Center or Program

GENERAL CRIME PROGRAMS



- General Crime Program
- No General Crime Program

Note: The shading on this map represents victim service programs funded by CVS in FY 05.



Office of Justice Programs

Jeri Boisvert, Executive Director

December 2004

Background

Governor Pawlenty created the Minnesota Office of Justice Programs (OJP) in May 2003 to improve the effectiveness of Minnesota's criminal justice planning and grant administration activities. The office brings together programs formerly operated through five separate state agencies: Minnesota Planning, Office of Crime Victim Ombudsman and the Departments of Public Safety, Education, and Economic Security.

Mission

OJP provides leadership and resources to reduce crime in Minnesota, improve the functioning of the criminal justice system, and assist crime victims. To accomplish our mission, we involve people at the local level most impacted by crime and violence in designing solutions. Our goal is to provide resources to the local level more efficiently through simplified processes and procedures, user-friendly systems, and better technology. OJP provides constituents with quality training, technical assistance and best practices. Our staff effectively communicates with constituents through e-mail, newsletters, the Internet and other outlets. We believe it is essential to focus on accountability and measure the impact of our efforts and the efforts of grantees.

Budget

With a budget of \$53,779,617 for State Fiscal Year 2005, OJP is funded with a mix of General Fund appropriations (50%), special revenue (4%) and Federal Funds (46%). OJP has a staff of 43 full-time-equivalent positions and two major program areas: Crime Victim Services and Justice and Community Grants.

JUSTICE AND COMMUNITY GRANTS

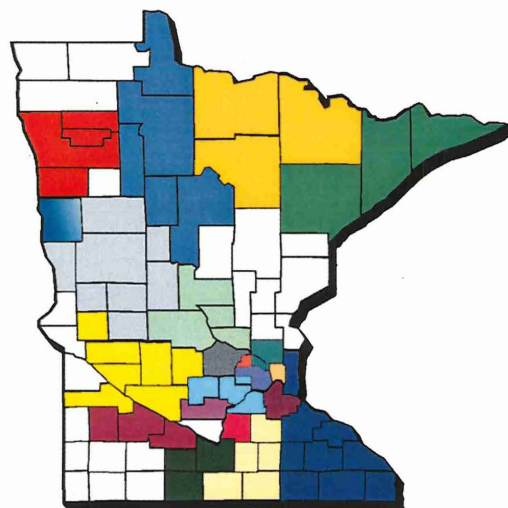
The OJP Justice and Community Grants Unit (formerly Office of Drug Policy and Violence Prevention) is comprised of 14.5 FTE. The unit provides funding, training and technical assistance to improve the functioning of Minnesota's criminal justice system and reduce crime, delinquency, drug abuse and violence.

Federal Byrne Funding Programs

This grant program comes from the U.S. Department of Justice and provides funds to state and local governments to carry out specific programs to improve functioning of the criminal justice system and enhance drug control efforts. Funds may be used in 29 authorized purpose areas. Following are programs, funding and purposes:

Multi-Jurisdictional Narcotics Task Forces
\$2,600,000 — Increase identification and arrest of narcotics law violators; develop agreements among law enforcement agencies; increase law enforcement expertise for investigation of narcotics cases; and increase availability of intelligence on narcotics activity.

2004 MINNESOTA MULTI-JURISDICTIONAL
NARCOTICS TASK FORCES



Criminal Justice Information System Improvement \$420,958 — Establish a useable, reliable, accurate statewide criminal justice information system for Minnesota law enforcement.

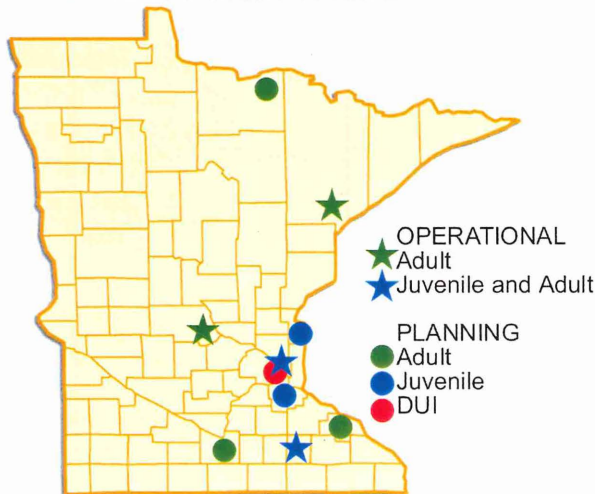
Prosecution Support/Training for Criminal Justice Personnel \$150,000 — Enhance prosecution support to rural counties and training for criminal justice professionals.

Criminal Justice Problem-solving Partnership Grants \$1,186,547 — Assists local collaborations in addressing long-standing criminal justice problems in communities.

Re-entry Programs for Offenders \$1,100,000 — Prepares offenders for successful reentry to communities, and addresses long-term stable employment, housing, substance abuse, and physical and mental health issues.

Substance Abuse Courts \$700,000 — Supports judicial leadership, multi-disciplinary collaboration and local planning to address substance abuse among defendants in criminal and juvenile court.

2004 DRUG COURT GRANTS



Residential Substance Abuse Treatment for State Prisoners (RSAT) \$500,000 — Assists state and local governments to develop and implement residential substance abuse programs in state and local correctional and detention facilities.

Law Enforcement Training \$500,000 — Leadership training for peace officers focused on unbiased policing strategies.

Federal Juvenile Justice Programs

Federal funds for juvenile justice programming are received from the U.S. Department of Justice. OJP administers four funding categories:

Title II \$1,104,000 — Addresses over-representation of youth of color in the juvenile justice system and gender specific services. Programs address prevention, intervention, diversion and aftercare.

Title V \$246,000 — Local governments implement comprehensive delinquency programming. The program emphasizes mirror the Title II program. States receive a federal allocation based on juvenile population under age 18.

Juvenile Accountability Block Grant (JABG) \$874,085 — Attempts to reduce juvenile crime by encouraging accountability-based reforms at state and local levels.

Other Federal Programs

Local Law Enforcement Block Grants (LLEBG) \$693,031 — Provides funds to local governments for projects to prevent and control crime and improve public safety as well as the overall functioning of the criminal justice system.

Weed and Seed \$1,075,000 — Assists neighborhoods in "weeding out crime" through targeted law enforcement efforts and "seeding" community livability and vitality through coordinating prevention and intervention programming.

Project Safe Neighborhood (PSN) \$982,919 — Addresses gun violence in urban American Indian communities and 11 reservations in the state through targeted law enforcement and enhanced prosecution efforts.

State Programs

Community and Youth Focused Crime Prevention \$1,489,000 — Supports prevention and intervention programs that create and sustain safer communities.

Criminal Gang Strike Force \$352,000 — Identifies, investigates, arrests and prosecutes gang members involved in crime.

STATISTICAL ANALYSIS CENTER

The Statistical Analysis Center (1 FTE) provides criminal and juvenile justice information, conducts research, and develops reports on a variety of criminal justice topics. The Center maintains and posts crime data and reports on its interactive website. Recent research projects include compiling data on disproportionate minority contact in the juvenile justice system and reports to the legislature on domestic violence and sexual assault.

CENTER FOR CRIME VICTIMS

The Crime Victim Services Unit (CVS), comprised of 27.5 staff, provides assistance to Minnesota crime victims in four distinct program areas: Crime Victim Reparations, Grants to Local Programs for Assistance to Crime Victims, Training and Communication, and Crime Victim Justice.

Crime Victim Reparations \$3,067,345

Reparations provides victims and families direct compensation for losses as a result of a violent crime. Expenses may include medical costs, mental health care, funeral and burial costs, lost wages, loss of support, child care or household services. In FY04, the program received 1,658 claims. The program also trains criminal justice professionals, service providers and advocates about reparations.

Funding from the federal crime victims fund is equal to 60 percent of the state's payments to victims in the previous year.

Grants to Local Programs for Assistance to Crime Victims

\$30,516,297 — With state and federal dollars, CVS provides funding for sexual assault, general crime, battered women's and child abuse victim support and advocacy programs.

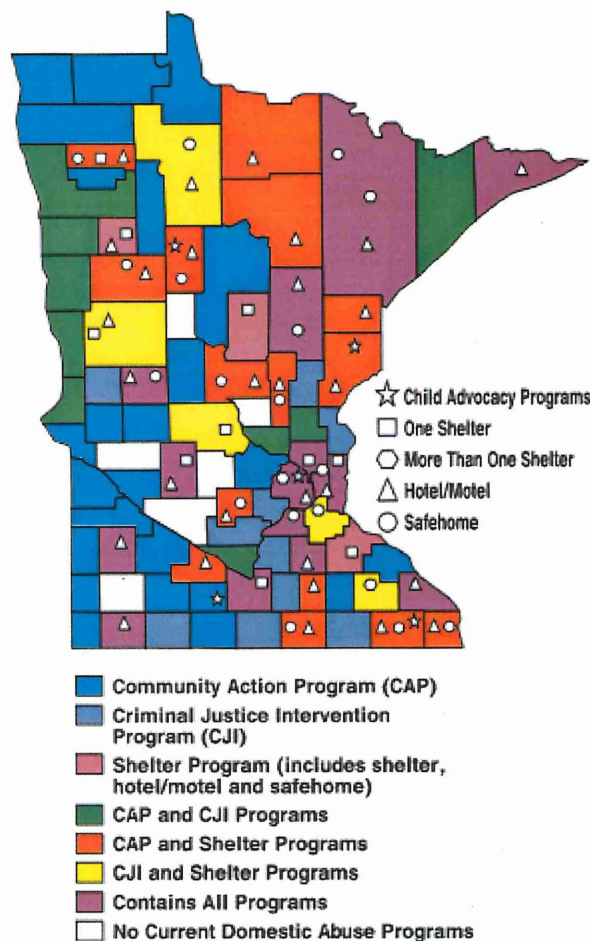
General Crime Victim Programs — Provides services in 60 Minnesota counties. In FY 03, general crime program grantees served over 42,000 primary and secondary victims. People served were victims of crimes such as homicide, assault, robbery, burglary, theft, domestic abuse, sexual assault, arson, and terroristic threats.

Abused Children Programs — Provides services in 32 Minnesota counties through community advocacy and assistance programs. In FY03, over 8,000 children were serviced.

Battered Women's Programs — Provides services in 78 Minnesota counties through

shelter, advocacy and/or criminal justice intervention programs. In FY03, nearly 13,000 victims were provided shelter services and almost 65,000 primary and secondary victims received services.

DOMESTIC ABUSE PROGRAMS IN MINNESOTA



Sexual Assault Programs — Provides services in 71 Minnesota counties. In FY03, sexual assault programs served 12,880 primary and secondary victims. People served included adult and child victims of sexual assault, adults victimized as children, and victims of sexual harassment, stalking and sexual exploitation.

Emergency Grant Program — Emergency fund grants ranging from \$1,000 - \$5,000 are awarded to 70 grantee programs annually for emergency needs of crime victims (moving expenses due to imminent danger, temporary shelter, travel for court hearings, and security purposes).

Training and Communications

CVS staff provide training to criminal justice professionals on issues including victim rights, cultural competency and non-profit financial management. Last year, 1500 people attended training sessions. CVS also provides an annual conference on crime victims for approximately 450 multi-disciplinary attendees.

Training and Communications manages implementation of the VINE system, which provides notification to victims and others on the custody status of offenders. Minnesota's statewide VINE system is currently operating in 55 counties and serving over 1100 victims of crime.

As required by the Minnesota Community Notification Law, the Community Notification and Department of Corrections (DOC) Victim Liaison provides victim input at End of Confinement Review hearings and provides post-conviction support for families at life review hearings conducted by the Minnesota DOC.

Crime Victim Justice

Formerly the Office of Crime Victims Ombudsman, this unit provides information and referral, assistance in navigating the criminal justice system and investigation of crime victim rights violations and mistreatment.

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WATCH
bringing a public eye to justice

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WATCH is a volunteer-based, nonprofit organization that monitors cases of domestic violence, sexual assault, and child abuse and neglect in Hennepin County. WATCH seeks to improve the justice system's handling of cases of violence against women and children. The presence of volunteers and staff in the courtroom, combined with careful research, specific recommendations, and thoughtful reporting, have allowed WATCH to be a catalyst for improvement and change by the judiciary and other professionals working within the criminal justice system.

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What people say about WATCH . . .

“WATCH is the court’s best friend.”

Hennepin County District Court Judge

“Everybody does a better job when WATCH is in the courtroom.”

A Hennepin County District Court Judge

“[T]he best ideas for change come from outsiders who are not biased by the assumptions and history that often blinds insiders to the need or potential for change.”

A Hennepin County District Court Judge

“WATCH is the conscience of the courthouse.”

A Hennepin County Prosecutor

“Their impact in the courtroom has been little short of revolutionary . . . WATCH serves the function of public input, public scrutiny and public oversight that has been so sadly lacking heretofore.”

A Hennepin County Assistant Public Defender

“WATCH does just what its name suggests: It pays attention. There’s no question that its cool gaze has spurred a distracted court system toward more scrupulous handling of crimes against women and children. Judges, prosecutors, and public defenders all say that it has.”

Minneapolis Star Tribune Editorial

WATCH

bringing a public eye to justice

*To make the
criminal justice
system more
effective and
responsive in
handling cases
of violence,
particularly
against women
and children.*

WATCH *Bringing a public eye to justice*

WHY WE WATCH

Crimes of domestic abuse, sexual assault, and child abuse and neglect have a deep and destructive impact on every community. Court monitoring programs can help the justice system reach its potential by identifying flaws, recommending solutions, and advocating change.

HISTORY OF WATCH

WATCH was created in 1992 as a community response to the growing number of news reports of a lax, revolving-door justice system that failed to respond seriously to crimes of violence against women and children. The brutal sexual assault and murder of a young Minneapolis woman by a recently paroled prisoner with an extensive criminal sexual history was the catalyst for a group of concerned citizens to create WATCH. After meeting with representatives of the justice system as well as members of domestic abuse programs, it was determined that although there were adequate victim services in Hennepin County, there was also a strong need for a public presence in the courtroom to hold the system accountable for its actions. Trained volunteers first entered the courtroom in Hennepin County in March 1993.

MONITORING, RESEARCH AND ADVOCACY

WATCH's volunteers provide a consistent public presence in the courtroom, and observe and collect data on approximately 5,000 appearances per year. As a result of court monitoring efforts, WATCH staff members identify troublesome patterns in the justice system such as victim safety concerns being minimized, chronic offenders going through the system without serious consequences, and high risk offenders being released without bail. WATCH then takes the next step to undertake further investigation and research into these problems. Reports of this research are disseminated to criminal justice personnel, and the media when appropriate, as well as published in our quarterly newsletter *WATCH Post*.

WATCH advocates for change by communicating concerns directly to judges and other members of the criminal justice system, and by working collaboratively through local committees and task forces such as the 4th Judicial District Family Violence Coordinating Council.

WE BELIEVE

- The criminal justice system must be held accountable for how it resolves criminal cases and for the outcomes of its proceedings.
- The judicial system should act swiftly, firmly, and consistently to reinforce the message that violence will not be tolerated.
- The public should be more informed about judicial conduct and other aspects of the criminal justice system.

OUR OBJECTIVES

- To hold the criminal justice system accountable for its actions.
- To identify problem patterns and issues within the court system.
- To improve the administration of justice.
- To increase public awareness and public trust in the justice system.

WATCH's MISSION IS TO MAKE THE COURTS MORE EFFECTIVE AND RESPONSIVE IN HANDLING CASES OF VIOLENCE, PARTICULARLY AGAINST WOMEN AND CHILDREN, AND TO CREATE A MORE INFORMED AND INVOLVED PUBLIC.

WATCH Post

Volume 12, Issue 3

Fall 2004

OFF PROJECT SUMMARY

Some improvements since 1999, but safety concerns remain

By Priya Outar

Civil orders for protection (OFPs) provide legal protection to victims of domestic violence from their abusers. WATCH began monitoring OFP hearings in 1998, and in 1999 published a report with observations and recommendations in the fall edition of the *WATCHPost*. In that article, WATCH expressed concern about parties' understanding of the proceedings, petitioner safety, the application of the federal law prohibiting firearm ownership for respondents, the timeliness of proceedings, and the court's interpretation of the domestic abuse statute. WATCH's study this year was conducted to follow-up on patterns identified in the earlier report and to address new concerns that have arisen in the intervening years.

The full OFP report, located on WATCH's website (www.watchmn.org), and this article are based on monitoring almost 300 OFP hearings between March 15 and June 18, 2004. Eighteen WATCH volunteers and staff monitored 16 judicial officers handling 59 morning-long calendars over the three-month period.

Our greatest concerns pertain to victim safety and are as follows:

- There are serious gaps in helping the parties understand the OFP process, and when the respondent does not understand the order, the victim's safety is at risk.
- The Family Justice Center has separate monitored waiting rooms for petitioners and respondents, but these rooms are often not used or are used inappropriately.
- While federal law prohibits respondents of OFPs from possessing firearms, petitioners continue to be threatened with

guns before and after the OFP is issued.

- Petitioner safety is often compromised when setting up communication with the respondent about children in common.

Improving understanding

Improving the parties' understanding of the OFP process is an important component of victim safety. During the study, the family court offered minimal assistance to parties prior to the hearing, most parties appeared without attorneys, and judicial officers seldom explained the proceedings in great detail.

Petitioners can rely on advocates from the Hennepin County Domestic Abuse Service Center (DASC) and other agencies for more information, but petitioners were accompanied by advocates in only about 60% of hearings monitored. Respondents are provided only the limited instructions of the *ex parte* order¹ and, as with petitioners, were represented by an attorney in only 20% of hearings.

Judicial officers thus play an extremely important role in helping parties understand the process. Some did a good job by consistently beginning the hearing by clarifying that OFPs are in civil court, by providing explanatory sheets of the

¹ Currently, respondents also receive an information sheet about domestic abuse hearings attached to the *ex parte* order that reiterates much of what is said in the order in simpler language. It also includes a brief explanation of the options offered to respondents at the hearing.

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WHAT'S NEW

Staff news

In July, Donna McNamara joined WATCH as part-time director of communications and development. Donna brings a wealth of knowledge and experience in working to end violence against women. She was director of education and training at the Sexual Violence Center for seven years, administered federal Violence Against Women Act funds for the Minnesota Department of Corrections, served on the Headwaters Foundation for Justice board, and most recently, was director of finance and administration at Friends of the Boundary Waters Wilderness. WATCH is pleased to welcome this seasoned leader to its ranks.

Board news

Also in July, Cheryl Pete left the WATCH board. She is off to Arizona, where she will be living closer to extended family and starting a new career as a school principal. Cheryl remains committed to WATCH's mission and hopes to find a similar court monitoring organization in her new home state. We wish Cheryl the best and thank her for her service to WATCH this past year.

In September, WATCH welcomed new board member Liliana Espondaburu.

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INSIDE THIS ISSUE

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A matter of life and death
- 4 Judicial elections**
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Websites with candidate information

The mission of WATCH is to make the justice system more effective and responsive in handling cases of violence, particularly against women and children, and to create a more informed and involved public.

Domestic violence: always a matter of life and death

By Marna Anderson

In the month of September, we in the metro area have been reminded in a particularly brutal way that domestic violence is always a matter of life and death. Between September 1 and 15, three women and one child were murdered by family members or significant others, two adult relatives living with one of the primary victims were also murdered, and another woman would have been murdered by her husband but for her adult son's intervention.

The deaths that received the most news coverage were those of Casandra Current, her mother, Renee Brown, and her step-grandfather, Wayne Huotari, allegedly stabbed by Bryant Jones. It was the first triple homicide in Minneapolis since 1996, and provoked public declarations and demonstrations about the seriousness of domestic violence from people on the street on up to Minneapolis Chief of Police William McManus.

Front page news earlier this year in May, just miles from where Current and her family were murdered, another family experienced a similar tragedy. Diane Levy was stabbed to death by her husband Frank Levy, and Levy's 15-year old daughter and another family member who tried to intervene were stabbed several times as well. Thankfully, the daughter and family member recovered.

Both Frank Levy and Bryant Jones had a history of domestic violence and drug and alcohol abuse. Unfortunately, court transcripts of both defendants' sentencing hearings reveal that the alcohol addiction was treated as the *primary* problem that, if addressed, would solve the *secondary* problem of domestic violence. A WATCH court monitor was at the 2003 felony arraignment (for 2nd degree burglary and violation of an order for protection) and sentencing of Bryant Jones. In her notes she indicated that the court did not pay attention to the history of domestic abuse, but focused its attention on the defendant's attempts to overcome his addictions. The WATCH volunteer noted that the defendant was ordered to chemical dependency treatment, but not domestic abuse counseling.

A WATCH volunteer was also present at a sentencing hearing for Frank Levy in April 2003 where he pled guilty to one count of terroristic threats. He was sentenced to three years' probation and ordered to complete his alcohol treatment and remain sober. There was discussion about whether or not he needed anger management or domestic abuse counseling, but the judge decided to leave that decision up to the supervising probation officer.

Our society, and particularly our criminal justice system, needs to let go of the myth that domestic violence is caused by drug and alcohol addiction and that batterers will quit battering if they quit using their drug of choice. No research backs up this lethal belief. Rather, a recent study by the New York Office for the Prevention of Domestic Violence underlined that most (76 percent) physical abuse occurs in the absence of alcohol use. Additionally, no evidence suggests that alcohol use or dependence is linked to other forms of domestic abuse, such as economic control, sexual violence, and intimidation. The report goes on to say "batterers who have not been held accountable for their abusive behavior in general find themselves even less accountable for battering perpetrated when they are under the influence of alcohol. The alcohol provides a ready and socially acceptable excuse for their violence."

When an abuser has an addiction problem, the courts should address both the addiction and the violence, even when it appears that the abuser becomes violent under the influence of drugs or alcohol. While we can't predict the actions of any individual, research clearly shows that domestic violence escalates over time. The courts should recognize this and do everything possible to protect victims of abuse from further abuse. If we truly mean to take domestic violence seriously and to prevent another deadly September, let's start by recognizing that domestic violence is a matter of life and death. □

✍ At today's felony arraignments, I was extremely impressed with the judge, who was thorough, respectful, and very professional. She handled all cases with a calm demeanor, was careful to explain details to defendants, and asked if they understood. Compared to my first experience with felony arraignments with another judge, this was a very different courtroom—in control and orderly. It made me feel more confident in what was happening.

✍ The victim in the first-degree assault case was the first to testify at the trial. She began crying the minute she sat down. The judge was reading a newspaper during the victim's testimony.

✍ I was very happy to see the judge recognize the severity of the charges – first and third-degree criminal sexual conduct. The judge found that the defendant was not amenable to treatment and did not take responsibility for his actions. She rejected the plea agreement, which would have included a year in the workhouse on each count, but no prison time. She said she would only consider a plea agreement that involved prison time, or the case would go to trial.

✍ During a trial for a man charged with possessing child pornography, the prosecutor did an excellent job identifying pornography as a form of sexual violence. In her closing remarks, she said, "You know, these are real kids who were penetrated and experienced everything we saw in those films. They are victims, who were victimized for the pleasure of the defendant." □

REMEMBER
EXERCISE YOUR RIGHT
VOTE NOVEMBER 2.

OFP PROJECT CONTINUED

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proceedings, or by giving out copies of the domestic abuse statute. However, more can still be done to better explain the options, the differences between civil and criminal court, and the no contact order. In addition, the written OFPs are not translated into other languages, compromising their effectiveness and thus victim safety when respondents do not understand English.

WATCH recognizes that the list of best practices for judicial officers at the end of this article is lengthy and will add time to individual OFP calendars. However, the preliminary information about hearings could be provided by a pamphlet prepared with the joint efforts of the family court bench, one judicial officer talking to separate groups of petitioners and respondents each day or by placing a videotape which explains the process on continuous loop in the waiting rooms.

The safety of waiting rooms in the Family Justice Center

WATCH's 1999 OFP report addressed the need for separate waiting rooms for petitioners and respondents and courtrooms that allowed more space between parties. The Family Justice Center, with its separate waiting rooms and its larger courtrooms, is something worth celebrating. The waiting rooms are equipped with cameras monitored by security staff, and deputies are always nearby.

Additional improvements have recently been made to the waiting rooms. Advocates and attorneys for petitioners expressed concern that respondents were intimidating their clients at a pay phone across from the petitioners' waiting room as well as through the window between the waiting rooms. Through the efforts of the Hennepin County Family Violence Coordinating Council Civil Committee, the phone was moved and the window was tinted. Advocates and attorneys in the petitioners' waiting room now report less intimidation.

Unfortunately, many times the waiting rooms are not used, most notably in the afternoons when the county cannot afford to staff them. Even during the mornings,

WATCH Post

some judicial officers do not make use of the waiting rooms and even specifically tell parties to wait in the hallway outside the courtroom instead of the waiting room. WATCH volunteers observed several instances where parties had to wait long periods of time outside the courtroom for their hearings to begin or continue. In one particularly egregious case, the petitioner and respondent sat in the hallway for thirty minutes together after being specifically instructed by the judicial officer not to return to the monitored waiting rooms.

With the exception of the lack of afternoon staffing, all other reasons for not using the waiting rooms appear to stem from prioritizing the efficiency of the calendar over the safety of the parties. WATCH recommends that the waiting rooms be staffed in the afternoon and that judicial officers, their staff, and the waiting room staff use the waiting rooms as intended.

Firearms ownership

Another danger to petitioners is the almost universal failure to talk about the firearms ownership prohibition with OFP respondents. WATCH recognizes that even after a decade, no systemic method of enforcing the law has been established. Thus, judicial officers may be reluctant to spend time on something that most likely will not be enforced. Some judicial officers may also be concerned that raising the firearms issue may make it more difficult for respondents to agree to necessary orders.

Still, it was startling that even when the petitioner's allegations involved firearms, the firearms prohibition was never mentioned. In one case, the petitioner alleged that the respondent had said he wished he had a gun "so he could blow [her] brains out." The OFP was issued, but the firearms prohibition was never mentioned. In another case, the respondent admitted that he had threatened to get a gun and kill the petitioner in front of their three daughters. Again, the order was issued, but the firearms prohibition was never mentioned. In a third case, the petitioner testified she was divorcing the respondent and that the

continued on page 6

OFPs EXPLAINED

Orders for protection (OFPs), are domestic abuse restraining orders. The petitioner, the person alleging the abuse, writes a petition describing the acts or threats of physical harm by the respondent, the alleged abuser. If the petition describes domestic abuse as defined by the law (see sidebar on page six), it is signed by a judge. The petitioner then receives an emergency *ex parte* order restraining the respondent from committing further acts of domestic abuse and from having contact with her. In Hennepin County, the respondent is personally served with the *ex parte* order and has a minimum of five days to prepare for an initial hearing. Since the OFP is a civil action, the petitioner must appear at the first hearing or the *ex parte* order will be dismissed.

At the hearing, the respondent may admit the allegations and agree to the order, deny the allegations but agree to the order, or deny the allegations and deny the order. If the respondent denies the allegations and the order, an evidentiary hearing is held to determine whether domestic abuse occurred by a preponderance of the evidence. If domestic abuse is found, an OFP is issued. A petitioner's relief can include no domestic abuse, no contact, exclusion from a shared residence, temporary legal and physical custody of children in common, child support, and spousal maintenance. If a respondent violates an OFP, he may be charged in criminal court. □

Use of gender

Several conventions are used throughout this report to ease readability and preserve anonymity. Judicial officers are not identified and are presumed female. As 89% of petitioners present were female and 87% of respondents present were male, examples of hypothetical parties presume the petitioner is female and the respondent is male. However, the genders of real parties are described as is. □

The changing legal landscape

By Karen R. Cole

Judicial elections in Minnesota used to be rather tame affairs. Few races were contested, campaigns were not expensive, and ideology was nowhere to be seen. In recent years, however, the landscape has changed as ideology has started to creep into judicial races.

A 2002 decision of the U.S. Supreme Court — White v. Republican Party — has changed the playing field. In the White decision, a sharply divided U.S. Supreme Court struck down a Minnesota restriction intended to keep politics out of judicial races. That restriction prohibited a judicial candidate from “announcing his or her views on disputed legal or political issues.” The Supreme Court ruled that judicial candidates do have a first amendment right to state their positions on specific issues.

Lawyers for the Republican Party have since asked the Eighth Circuit Court of Appeals to invalidate several other restrictions that bar judicial candidates from asking for or using political party endorsements, from attending and speaking at political conventions and gatherings, and from personally asking for campaign funds or seeking “publicly stated support.” They argue that the current rules improperly restrict the free speech rights of judicial candidates and that the challenged restrictions must fall under the reasoning of the White decision.

Opposing such changes are the state boards that regulate judges and lawyers and many attorneys all along the political spectrum. They contend that the first amendment rights at issue are balanced by the due process right of litigants to a fair hearing by an unbiased decision maker. They further argue that there is a very strong interest in a judiciary that is independent of the political influences that pervade the legislative and executive branches.

The Eighth Circuit Court of Appeals will hear oral argument on this latest round of

legal challenges in late October, and a decision will be issued some time later.

Recent elections

Ideology did become a factor in several judicial elections in 2002, and this year, the tendency toward politicization of the judiciary has continued. While most judicial candidates have wisely declined to state their personal views on political issues, two candidates for appellate seats are running ideologically based campaigns. One of them — a challenger for a Supreme Court seat — is running an overtly religious campaign. Another candidate for a Court of Appeals seat has been a longtime Republican Party activist, and an advocate for politicization of the judicial races.

Voters' response

How should voters respond to these changes? It may be tempting to support a judicial candidate who espouses kindred views on political issues, but voters should resist that temptation. To do otherwise is to give up the idea that judges will rule on cases based on the law and not on their personal positions on issues. Rather than considering the views of judicial candidates on specific issues, voters should consider the quality and depth of a candidate's legal experience, reputation for excellence, temperament, and involvement in the community. And, voters should press the governor for judicial appointments that are apolitical and reflect these broad criteria.

For more information on the judicial elections and for Minnesota Women Lawyers (MWL) judicial endorsements, consult MWL's web page at www.mwlawyers.org or call 612/338-3205. □

Karen Cole is a Minneapolis attorney, and co-chair of the Minnesota Women Lawyers Voter Outreach Committee.

Volunteers and interns join WATCH

Fifteen volunteers participated in WATCH court monitoring training on September 21 and 23. They began accompanying staff and experienced volunteers to court the week of October 4. Several veteran volunteers presented at the training and, judging from evaluations, their insights and stories were very meaningful to the new folks. Personal experiences are often worth a thousand flow charts! In addition, WATCH welcomes five fall interns from local colleges to the office.

Volunteers started WATCH and continue to be the heart and soul, eyes and ears of the organization. Welcome all! □

WATCH needs you

Court monitoring volunteers do just that—monitor a variety of court hearings. Examples include: order for protection (OFP) hearings, felony arraignments, trials and sentencing. Volunteers note the demeanor and actions of court personnel and outcomes of hearings. This is vital to WATCH having up-to-date, comprehensive information on how the court system is working.

As the report of WATCH's 2004 OFP project in this issue shows, victims continue to face obstacles to safety when using the court system. WATCH volunteers make a real difference in the lives of women and children by keeping a public eye on the courts.

Court proceedings are held during the day Monday through Friday. Volunteers are asked to schedule one morning or afternoon shift per month.

Volunteer training starts January 25. Call (612) 341-2747 for more information or see www.watchmn.org/volunteer.html for an application. □

JUDICIAL ELECTION RESOURCES

By Tracy Reardon

We live in a state where the public has the privilege of electing judges. Unfortunately, most voters are at best confused, and at worst apathetic towards judicial races. In the last election, almost a third of Minnesota voters didn't check off a candidate for Supreme Court or for the only contested Appeals Court race.

A significant number of those who did vote likely based their decision on name recognition or demographic factors (such as gender). Most citizens do not have regular contact with the justice system and thus may not attach much importance to judicial elections. In reality, however, judges have a huge impact on our communities and our lives, as a glance at any newspaper (or this newsletter!) will show. Take seriously the duty of electing judges by checking out the following resources before heading to the polls on November 2.

Hennepin County Bar Association (www.hcba.org/judges.htm): The "Meet the Judges" section on the Hennepin County Bar Association's (HCBA) website includes judges' background information,

case statistics, and responses to questions about courtroom procedures. For contested seats, HCBA has posted incumbents' and challengers' bios and essays about why they would like to become or remain a judge. The results of judicial plebiscite polls of HCBA's members will be released on the website on October 14.

League of Women Voters of Minnesota (<http://www.lwvnmn.org/EdFund/Election2004.asp>): After entering your address on this website, the League of Women Voters (LWV) produces an individualized voter's guide that lists candidates for all of the elections in your district, along with contact information, email addresses, and websites. LWV has also posted guidelines for what to look for in a judicial candidate.

Minnesota Lawyer (www.minnlawyer.com): *Minnesota Lawyer* publishes a comprehensive online voter guide for the public. The Judicial Election 2004 section of its website contains candidates' bios, contact information, and answers to questions about their qualifications, issues they would like to address within the justice system, and their views on discussing disputed legal and political issues.

Minnesota Women Lawyers (www.mwlawyers.org/): Minnesota Women Lawyers (MWL) screens judicial candidates and makes endorsements based on the candidates' experience, temperament, and community activities. The website describes these criteria in more detail and lists the candidates MWL endorses.

Fourth Judicial District Court (www.courts.state.mn.us/districts/fourth/Bios/biomain.htm): This website introduces current judicial officers in Hennepin County by way of bios, current assignments, and statistics, and identifies those that are being challenged.

WATCH (www.watchmn.org) WATCH, the Minneapolis League of Women Voters, and the Hennepin County Bar Association sponsored a judicial forum on October 7 featuring candidates for three contested Hennepin County court seats. The forum was taped for broadcast on local cable television stations. For a broadcast schedule, visit WATCH's website at www.watchmn.org.

Tracy Reardon is a research intern at WATCH.

THUMBS UP/THUMBS DOWN

👍 Thumbs up and congratulations to **Cornerstone**, which after nearly 21 years of advocating on behalf of women and children harmed by domestic abuse moved into its shiny new Sheila Wellstone Center in August.

👍 Thumbs up to the **Minnesota Court of Appeals** for affirming a lower court's decision to dismiss the claim that funding for services for battered women and victims of domestic violence constitutes sex discrimination. Let's hope this pernicious challenge will be put to rest so precious court time can be devoted to worthy legal battles.

👍 Thumbs up to **Ramsey County Judge John Finley** for striking down the conceal and carry law as unconstitutional because it was tacked on to a totally unrelated bill to get it passed by the legislature. If the law was meant to protect people, why is it that having one or more

guns in the home makes a woman *seven* times more likely to be the victim of a domestic homicide?

👍 Thumbs up to the **Minnesota Court of Appeals** for affirming a Dakota County court's decision to allow expert testimony on battered women's syndrome in a recent sexual assault trial. The case involved a brutal, day-long assault by an intimate partner, after which the woman called 911. At trial, the victim recanted her earlier statements to police, a paramedic, and a sexual assault exam nurse. In seeking to introduce the expert testimony, the state cited recantation of abuse as a common characteristic of battered women's syndrome. The jury found the defendant guilty on all five counts and the judge sentenced him to 288 months, a double upward departure, for first-degree criminal sexual conduct, and a concurrent 21 months for the assault conviction.

👍 Thumbs up to the **Minnesota Supreme Court** for reversing the Court of Appeals' decision in *McCoy*. The defendant in this case appealed his conviction for domestic assault, claiming the court erred in allowing testimony of prior domestic abuse since "clear and convincing" evidence of it had not been presented. Citing Minn. Stat. 634.20, the Supreme Court held that similar conduct in domestic abuse cases can be admitted without requiring the heightened standard that the evidence be "clear and convincing." It further stated that "... our precedent indicates that we have treated evidence that illuminates the history of the relationship between an accused and a victim differently than other "collateral" *Spreigl* (prior bad acts) evidence. We believe this different treatment is appropriate in the context of the accused and alleged victim of domestic abuse. Domestic abuse is unique in that it

continued from page 3

respondent had a long history of abuse including past OFPs and at least three prior domestic charges against her. The petitioner said that she was afraid because the respondent had taken his guns and ammunition from their shared home in addition to the house and car keys. Once again, the judicial officer issued the order, but never said anything to the parties about the firearms prohibition.

WATCH also monitored cases where petitioners continued to be threatened with guns after an OFP had been issued. In one case, the petitioner testified that the respondent threatened her and said, "Did you forget I have a gun?" The respondent denied that this could have happened because he apparently gave up his gun in early 2004 when another OFP was issued against him. While the judicial officer explained no contact in greater detail, she did not reiterate the firearms prohibition to the respondent. In another case, the petitioner was seeking an OFP against the respondent and said that he fired a gun in a bar that she was in even though a prior OFP was in place at the time. However, the judicial officer did reiterate the firearms prohibition in this case.

WATCH strongly encourages judicial officers to talk about the firearms ownership prohibition at every hearing, and especially at hearings where the allegations include threats with firearms. WATCH also strongly supports those working towards creating firearms housing for confiscated guns and a systemic method of enforcing the law.

Children in OFPs

In at least 43% of the hearings monitored for this study, parties had children in common. In this situation, petitioners are often at greater risk for further abuse, especially when children are exchanged for visitation. The safest means of communicating about the children is not always encouraged or adopted. Furthermore, judicial officers eager to assign temporary visitation at OFP hearings often do not acknowledge how respondents can also continue to

torment petitioners by keeping the children longer than planned or by harming the children.

Surprisingly, phone contact was suggested or urged in some cases where verbal threats were the primary form of abuse. In the case where the respondent admitted that he had threatened to kill the petitioner in front of their three children, phone calls were allowed to communicate about the children. In a similar case, the petitioner testified that the respondent called her incessantly, was verbally abusive, and said that she wanted nothing to do with him. The order was issued, but the judicial officer allowed phone contact to discuss their child. In yet another case, the petitioner testified that the respondent, a drug user, had sexually abused their children, constantly threatened her, and that she wanted no contact with him. The order was issued, but the judicial officer asked the petitioner whether she "insisted" that the respondent not be able to call. The judicial officer then convinced the petitioner to accept phone calls from the respondent with a warning to talk only about the children. In effect, encouraging phone contact about the children when the petitioner is receiving verbal threats places the respondent's convenience above the petitioner's safety in a motion she initiated for her protection.

WATCH encourages judicial officers to recognize that additional safety concerns can arise from exchanging and communicating about children in common. Judicial officers should be conscientious about accepting and recommending the safest means of contact and communication regarding the children in common.

Conclusion

WATCH is encouraged that some steps have been taken to enhance petitioner safety but is disappointed to find that many of the problems highlighted five years ago in the *WATCHPost* remain today. The gaps in parties' comprehension of the process, the underuse of the waiting rooms, the rarity in which the federal firearms prohibition is stated to respondents and the neglect of the potential dangers to

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Legal definition

What is Minnesota's legal definition of domestic abuse?

In Minnesota, domestic abuse is defined as the following between family or household members*:

- Physical harm, bodily injury, and assault including hitting, kicking, pushing, stabbing, and strangulation
- The infliction of fear of imminent physical harm, bodily injury, or assault
- Terroristic threats, such as threats to commit a crime of violence, bomb threats, or brandishing a firearm
- Criminal sexual conduct such as forced sexual contact or any other form of sexual contact with a minor
- Interference with a 911 call

*"Family or household members" includes spouses and former spouses, parents and children, persons related by blood, persons who have a child or expected child in common, and persons involved in a significant romantic or sexual relationship.

A link to the complete domestic abuse statute can be found at the WATCH website at www.watchmn.org. □

October is Domestic Violence Awareness Month

2004 marks the seventeenth year Domestic Violence Awareness Month has been observed. Its intent is to connect battered women's advocates across the nation who are working to end violence against women and children. Activities are planned at the local, state, and national levels. For a calendar of local and state activities, visit the Minnesota Coalition for Battered Women's website at www.mcbw.org/dvamcalendar.htm. For national activities, visit the National Coalition Against Domestic Violence website at www.ncadv.org. □

OFF PROJECT CONTINUED

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petitioners caused by contact about children all represent continuing challenges to petitioner safety. As this article represents highlights of the full report, WATCH urges readers to review the report in full on our website.

Summary of best practices and recommendations to improve comprehension

- Reading the petition: Judicial officers should ask every respondent if he has read and understands the petition. If he is not familiar with the allegations in the petition, the allegations should be reviewed aloud to account for the possibility that the respondent cannot read or cannot read English.
- Language: Judicial officers should avoid using unnecessary legal language with parties who do not have representation.
- Civil v. Criminal: Judicial officers should explain to parties in OFF proceedings that OFFs take place in civil court and not criminal court. They should remind respondents that having an OFF against them does not indicate a crime, but that violating one is a crime. Finally, and especially before evidentiary hearings, judicial officers should explain that the burden of proof is lighter in civil court than in criminal court. At minimum, judicial officers should respond to parties who use language that applies to criminal court, such as "pleading guilty," "trial," or "charges" to make sure that parties understand the process.
- The options: Judicial officers should offer all three options to the respondent at the beginning of the hearing. To further aid in comprehension, judicial officers may explain the implications of each option to the respondent to allow him to make the best choice. However, judicial officers should not show a preference for any option or base their explanation on the case at hand.

- Firearms: Judicial officers should inform respondents that having an OFF issued against them prohibits them from owning firearms.
- Findings of abuse: If there are findings of abuse after an OFF, the judicial officer should read and explain them to both parties.
- No contact: If a no contact order is issued, judicial officers should explain that the respondent cannot contact the petitioner directly or through others.
- Violation of the order: If the order is issued, judicial officers should tell respondents that they, and not petitioners, can be arrested and charged with a crime for violating it.
- Interpreters: All interpreters should be sworn in so that court records can be reviewed if a problem with interpretation arises. All respondents, and especially respondents with interpreters, should be asked if they understand the petition. Judicial officers should speak deliberately to allow for more coherent interpretation. Judicial officers should explain the final OFF to the parties in the courtroom with an interpreter present.
- Explanatory videotape: To ease the burden on judicial officers, one judicial officer should provide an explanation of the OFF process on video. The video should be played on continuous loop in both petitioner and respondents' waiting rooms.
- Order translation: OFFs for respondents who need interpreters should be translated. At minimum, OFFs should be translated in the most commonly used foreign languages in Hennepin County. □

Priya Outar is the WATCH Court Monitoring Coordinator and the 2004 OFF Project Manager.

WHAT'S NEW CONT.

continued from page 1

Liliana is Casa de Esperanza's director of systems change and training and also a consultant and trainer with such organizations as Praxis International, the Battered Women's Justice Project, and Minnesota Program Development, Inc. Prior to Casa de Esperanza, she worked at the Ramsey County Attorney's Office Victim Witness Program for eight years. Liliana brings a broad understanding of the criminal justice system and victims' rights to WATCH, and we look forward to her leadership in the coming years.

WATCH to be honored

WATCH is pleased to announce that we will receive the Community Leadership Award from the Hennepin County Attorney's Office in November. Named in the award are four WATCH leaders—founder Susan Lenfesty, founding executive director Jacquelyn Hauser, board chair Shelly Carthen Watson, and executive director Marna Anderson. □

THUMBS CONT.

continued from page 5

typically occurs in the privacy of the home, it frequently involves a pattern of activity that may escalate over time, and it is often underreported."

☹ Thumbs down to the *Star Tribune* for not paying more attention to the placement of on-line ads. An August 19, 2004 story titled [Reports of sex in girls' prison to be reviewed by Wisconsin team](#) is followed by this Internet link: *Find inmates for Dating!*

☹ Thumbs down to the **judge in the Kobe Bryant case** for erroneously allowing it to become focused on what the victim wore, what she said, and how she lived her life. This case is a painful reminder that when it comes to sexual assault, particularly between acquaintances, friends, or family members, women are still shouldering the blame and being scrutinized, as if they are the ones on trial. □

WATCH

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WATCH testifies at state Supreme Court

Public access to court data

With the increasing use of technology for compiling data, public agencies face decisions about the types and amount of information to make available on-line. The Minnesota Supreme Court recently solicited public input on the matter of which court records should be available electronically, and WATCH was there to testify. While WATCH's mission includes promoting transparency of the courts, our statement to the court advised caution and emphasized the need to protect personal

information of victims of domestic violence. This is one area of "public accessibility" that poses serious safety concerns for battered women and victims of stalking and harassment. Easy access to documents that contain personal information, such as home addresses of victims, is not important for transparency of the courts, but would be a boon for abusers trying to locate victims.

The needs of children

In August, WATCH presented remarks at the Minnesota Supreme Court's Listening Session on Children in Minnesota Courts. Thirty-five organizations and individuals made presentations to a judicial panel, including former executive director and board member Jacquelyn Hauser on behalf of WATCH. Jacquelyn spoke of the need for "CourtCare," childcare centers providing a safe place in or near the courts for children while their parents are attending hearings. □

The next WATCH volunteer training is January 25 & 27, 2005. Check our website for details or call volunteer coordinator Libby Wyrum at (612) 341-2747.

Thank you to Rebecca Kutty for editing
and Val Lies for layout of WATCH Post.

2004 WATCH OFP Report

By Priya Outar
WATCH Court Monitoring Coordinator and 2004 OFP Project Manager

October 15, 2004

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The mission of WATCH is to make the justice system more effective and responsive in handling cases of violence, particularly against women and children, and to create a more informed and involved public.

Introduction

WATCH began monitoring orders for protection (OFP) hearings in 1998, and in 1999 published a report with observations and recommendations in the fall edition of the *WATCH Post*. In that report, WATCH expressed concern about parties' understanding of OFP proceedings, petitioner safety, the application of the federal law prohibiting firearm ownership for respondents, the timeliness of proceedings, and the court's interpretation of the domestic abuse statute. WATCH's study this year was conducted to follow up on patterns identified in the earlier report and to address new concerns that have arisen in the intervening years.

Civil orders for protection (OFPs) provide legal protection to victims of domestic violence from their abusers. The petitioner, the person alleging the abuse, writes a petition describing the acts or threats of physical harm by the respondent, the alleged abuser. The petition describes domestic abuse as defined by the law (see Appendix A). Based on this petition, a judge will sign an emergency *ex parte* order restraining the respondent from committing further acts of domestic abuse and from having contact with the petitioner. In Hennepin County, the respondent is personally served with the *ex parte* order and has a minimum of five days to prepare for an initial hearing. Since the OFP is a civil action, the petitioner must appear at the first hearing or the *ex parte* order will be dismissed.

At the hearing, the respondent is generally presented with three options: he may admit the allegations and agree to the issuance of the order, deny the allegations but agree to the order, or deny the allegations and deny the order. If the respondent denies the allegations and the order, an evidentiary hearing is held to determine whether domestic abuse occurred by a preponderance of the evidence. If the judicial officer finds domestic abuse, an OFP is issued. A petitioner's relief can include: no domestic abuse, no contact, exclusion from a shared residence, temporary legal and physical custody of children in common, child support, spousal maintenance, and restitution. If a respondent violates an OFP, he may be charged in criminal court.

This report is based on observations of almost 300 OFP hearings monitored between March 15 and June 18, 2004.¹ Sixteen WATCH volunteers and staff monitored 16 judicial officers handling 59 morning-long calendars.² Not surprisingly, WATCH monitors were in OFP hearings almost every day of the project. OFP monitors were recruited from the already existing WATCH volunteer base. In addition to the standard six-hour training received by all WATCH volunteers, project volunteers reviewed WATCH's original OFP report, learned about 518B, the domestic abuse law that governs OFP hearings, and monitored hearings with a staff member. Volunteers also met in the middle of the project to talk about their observations and to raise and discuss questions and concerns. Volunteer profiles can be found in Appendix B.

At the outset, WATCH sent letters to the family court judicial officers informing them of the project and met with almost all of them during the course of the project. Judicial officers were,

¹ The MetroTransit bus strike overlapped with the first month of the study. Judging from the very long calendars after the strike ended, it is likely that some potential petitioners slipped through the cracks and that many petitioners were forced to wait for needed protection until affordable transportation was once again available.

² It should be noted that eight of the 16 judicial officers presided over 75% of the hearings monitored.

for the most part, receptive, and several commented that WATCH had been a positive influence on the justice system.

Several conventions are used throughout this report to ease readability. Judicial officers are not identified and are presumed female to preserve anonymity. As 89% of petitioners were female and 87% of respondents were male, a petitioner is referred to as “she” and a respondent as “he” except in specific cases.

WATCH and the justice system share the same goal of victim safety in OFPs and much has been done to improve the OFP process. The relocation of OFP hearings to the more secure Family Justice Center in 2002, the recent study by the family court on fairness in OFP hearings, and recent efforts by the Hennepin County Family Violence Coordinating Council have all contributed to improved victim safety. However, still more can and should be done to make, as one WATCH volunteer noted, “a good process even better.”

WATCH’s greatest concerns about victim safety are as follows:

- There are serious gaps in helping the parties to understand the OFP process and especially the final order.
- The Family Justice Center has separate, monitored waiting rooms for petitioners and respondents, but these rooms are often not used.
- While federal law prohibits OFP respondents from possessing firearms, petitioners continue to be threatened with guns.
- Petitioner safety is often compromised when setting up communication with the respondent about children in common.

Improving understanding

Improving the parties’ understanding of the OFP process is an important component of victim safety. Both petitioners and respondents often appeared to be left confused by the minimal assistance provided by the family court, by a lack of attorney representation, and by judicial officers who do not explain what they are doing. On a systemic level, petitioners can rely on the Hennepin County Domestic Abuse Service Center (DASC) advocates for assistance³ while respondents are provided only the limited instructions of the *ex parte* order.⁴

Appointed counsel is not available in OFP hearings. Considering the low level of attorney representation—only 20% of petitioners and 20% of respondents had counsel—judicial officers play an important role in helping parties to understand the process. This begins at the initial hearing where respondents decide how to respond to the *ex parte* order. Individual judicial officers often went to great lengths to explain the process by providing explanatory sheets or copies of the domestic abuse statute. WATCH was impressed by those judicial officers who began hearings by making sure that the respondent had reviewed and understood the petition,

³ Other advocacy agencies, in addition to the county, also provide assistance to petitioners. Respondents may also request assistance from DASC if they self-identify as victims.

⁴ Currently, respondents also receive an information sheet about domestic abuse hearings attached to the *ex parte* order that reiterates much of what is said in the order in simpler language. It also includes a brief explanation of the options offered to respondents at the hearing.

clarified that OFPs were civil not criminal actions, and used language that was accessible to most. Still, the majority made only minor efforts to improve the parties' understanding of the process.

The difference between civil and criminal court is something many parties do not understand, and the judicial officer should address this. The respondent may believe that the petitioner is pressing criminal charges against him. Monitors often noted respondents using language restricted to criminal court, such as "charges" or "pleading guilty," without correction or clarification from the judicial officer. The prevalent use of the term "trial" by judicial officers for evidentiary hearings appeared to occasionally compound the problem. In one case, the judicial officer took the respondent's desire to "prove [his] innocence" as a request for an evidentiary hearing without ever explaining that the respondent was not on trial. In another case, the respondent said he would not "plead guilty" and the judicial officer simply ignored this assertion and continued to ask whether he had any problem staying away from the petitioner.

Instead, judicial officers should explain that this type of hearing is not a criminal trial and that the burden of proof is lower than in criminal court. Explaining the difference is especially important when respondents are in custody for a criminal charge. Finally, if the order is issued, judicial officers should remind respondents that having an OFP against you is not a crime, but that violating one is.

The three options are another source of confusion. WATCH monitors felt that the options and their implications were explained well only about 60% of the time. Some judicial officers never stated the options as three different choices for the respondent. Some offered only two options. Some asked whether the respondent agreed to the order or objected to the order without clarifying whether he was admitting or denying the allegations.

WATCH praises those judicial officers who offer all three options and explain their implications. On a cautionary note, explaining the implications should not mean telling a respondent which option is in his best interest as this appears partial and occurred in several instances. In one case, the judicial officer gave the respondent his options and explained their implications, but the respondent remained confused. The monitor noted that the judicial officer was "hinting strongly that the respondent should deny the allegations and agree to the order," even stating, "Remember what I said about taking a hint." In another case, the respondent agreed to have the initial hearing although he had not been given adequate notice, and the judicial officer asked him repeatedly if he wanted to continue the hearing. The respondent, who had been excluded from the house he owned by the *ex parte* order, chose to deny the allegations but agree to the order. The judicial officer reminded him that he would still be excluded from the residence, and the respondent then chose to deny the allegations and requested an evidentiary hearing. The judicial officer proceeded to chat with the respondent after the evidentiary hearing concluded.

Almost 85% of OFPs⁵ were issued but only 57% of those were further explained to the parties in the courtroom. One judicial officer rarely explained orders and occasionally ended hearings with,

⁵ This number excludes orders in which petitioners requested dismissal, orders that were continued, and hearings whose outcomes were not explained in court.

“just stay away from each other.” Another judicial officer told a respondent with a particularly violent history of threats, harassment, and violating orders that the order meant, “no contact in any way, shape, or form” instead of specifying which types of contact were prohibited.

Observing so few final explanations is especially surprising considering the conclusions of a study from Hennepin County’s Fourth Judicial District Research Division released in March 2004. In the study of perceived fairness in family court, researchers wrote:

The Family Court bench of the Fourth Judicial District chose to find out whether giving an explanation of the end of a Domestic Abuse hearing leads to improved perceptions of fair treatment among litigants, increased satisfaction with court, increased perceptions of the court as legitimate and ultimately increased compliance with Orders for Protection... The relationship between having an explanation and outcome fairness was mediated by procedural fairness, favorable outcome, and the opportunity to voice their views. In other words, getting a full explanation from the judicial officer makes litigants feel that they are being treated fairly, that their outcome is favorable and that their opinion is being heard. These three effects in turn lead litigants to feel that the outcome of their case was fair.

That is, the courts’ own researchers found that when judicial officers explained final orders, more parties felt their case outcome was fair, which could lead to increased compliance with the OFP.

Parties who speak a language other than English face even more hurdles in understanding *ex parte* and final orders, since they are not translated. The best being done right now is when judicial officers explain the final order in further detail in the courtroom or ask the interpreter to stay after the hearing to interpret it. The latter solution is problematic, however, as interpreters are trained to interpret speech and not speak on behalf of the court. Interpreters asked to translate written orders also spend more time waiting for judicial officers to prepare individualized orders while they may be needed elsewhere. Furthermore, interpreters are inappropriately placed in the position of responding to questions about the order. WATCH recommends that the county invest in translation of standard OFP forms in the most commonly spoken foreign languages in the community to meet this need.

WATCH recognizes that some of the above recommendations will add time to individual OFP calendars. However, the preliminary information about hearings could be provided by a pamphlet prepared with the joint efforts of the family court bench, a judicial officer talking to separate groups of petitioners and respondents each day, or by placing a videotape which explains the process on continuous loop in the waiting rooms. Streamlining the process at the front end would allow more time for explaining final orders, which is critical for victim safety.

Safety inside the courthouse

WATCH’s 1999 OFP report addressed the need for improved safety inside the courthouse. In particular, separate waiting rooms for petitioners and respondents and configuring courtrooms to allow more space between parties were recommended. The Family Justice Center, with its separate waiting rooms and its larger courtrooms, is something worth celebrating. The waiting rooms are equipped with cameras monitored by security staff, and deputies are always nearby.

Additional improvements have recently been made to the waiting rooms. Advocates and attorneys for petitioners expressed concern that respondents were intimidating their clients at a pay phone across from the petitioners' waiting room as well as through the window between the waiting rooms. Through the efforts of the Hennepin County Family Violence Coordinating Council Civil Committee, the phone was moved and the window was tinted. Advocates and attorneys in the petitioners' waiting room now report less intimidation.

Unfortunately, there are many times in which the waiting rooms are not used. For example, the waiting rooms are not open in the afternoon as apparently the county cannot afford to staff them. It is not unusual for a long calendar of OFPs to extend into the afternoon, or for judicial officers to schedule lengthy evidentiary hearings in the afternoon. Thus, the parties waiting for evidentiary hearings, among the most volatile, are often asked to sit on opposite ends of a hallway.

Some judicial officers do not use the waiting rooms for their intended purpose even while they are open. In one case, the WATCH monitor observed the judicial officer specifically tell the petitioner and respondent to leave the courtroom together and wait in the hallway, not the waiting rooms. The monitor, who also left the courtroom, observed that the petitioner and respondent sat in the hallway for 30 minutes together. In another instance, the monitor observed the judicial officer instruct the unaccompanied OFP parties to wait for the evidentiary hearing in adjacent meeting rooms. Ten minutes later, the deputy left the courtroom to check on them. Half an hour later, the judicial officer called them back into the courtroom. In a third instance, the WATCH volunteer arrived to find the courtroom locked with about six people waiting outside with no deputy. The volunteer waited for several minutes before a deputy opened the courtroom door and the petitioner and respondent for the first case were allowed in. As the volunteer monitored OFPs inside the courtroom, she observed that the people with whom she was waiting earlier were petitioners and respondents for upcoming cases.⁶

Failing to use the waiting rooms would be less serious if more deputies and security staff patrolled the building. While we are pleased to find that deputies were present in all but a handful of OFP hearings, volunteers often found that this did not allay concerns over security. Volunteers noted deputies going in and out of hearings, saying that they were responsible for several courtrooms at the same time, and sitting behind partitions doing paperwork.

Finally, as the parties were supposed to enter the courtroom at different times to limit contact, it was surprising to find that exits were often not staggered. Some judicial officers and deputies did stagger exits, and some went farther and reminded parties to take separate elevators. However, volunteers wrote about advocates, attorneys, and even interpreters forced to take responsibility for staggering exits when judicial officers and deputies failed to do so. Volunteers even monitored whole calendars where neither the judicial officer nor the deputy ever initiated a staggered exit.

⁶ In this incident, the judicial officer responded that our volunteer's observations were incorrect based on computer records of when parties were sent from the waiting rooms. However, in light of the volunteer's experience and reliability, we stand by her observations.

Safety outside the courthouse

Ensuring a victim's safety outside the courthouse is still the most important—and difficult—task confronting the justice system. The recommendations in this section pertain to matters that have a critical impact on victim safety, including dismissals, *ex parte* order violations, parties picking up belongings from formerly shared residences, and the federal firearms prohibition.

WATCH praises the many judicial officers who were persistent in petitioner-requested dismissals to keep petitioners safe. Several judicial officers or their deputies asked for a petitioner's identification to ensure that the right person was requesting the dismissal. Many judicial officers asked petitioners why they no longer needed the order and if they had been threatened to drop it. Some reviewed the allegations and urged petitioners to tell prosecutors their story. Several made sure that recent domestic abuse charges did not have criminal no contact orders as conditions of release. And some suggested amending the order so it prohibited abuse but not contact.

Petitioners' reasons for dropping orders varied from renewed hope in the relationship with the respondent, confidence in counseling and treatment received by the respondent, and increased inconvenience in exchanging children. Our volunteers found that petitioners dropping the order because they wanted the respondents to see the children did not always receive a further response from judicial officers. WATCH urges judicial officers to help these petitioners plan a better visitation schedule and tell them that they may request more limited no abuse orders instead of dropping the order altogether.

Judicial officers responded differently to dismissals when the petitioner did not show for the initial hearing. Some asked the respondent if he knew where the petitioner was or had put pressure on the petitioner not to appear. In some cases, judicial officers urged respondents not to have contact with the petitioner even though no order was in effect. WATCH encourages judicial officers to continue asking these respondents about absent petitioners' whereabouts and to discourage contact between the parties.

When one party has to pick up belongings from a formerly shared home, it can be dangerous to the petitioner. A case in point is the recent murder in St. Paul of Sheng Vang by her former husband, Moua Her. Vang had just received an OFP against Her and was picking up some belongings at the home where she had lived with him. From our observations, judicial officers appear to tell parties that they have the option of a police escort to pick up belongings. However, some judicial officers do not talk about the option of a police escort and instead order the respondent to pick up his belongings at a specific time when the petitioner is not there. While this may be a solution for less volatile cases, it can leave petitioners vulnerable to property damage so common in abusive relationships.

Another danger to petitioners is the overwhelming failure to talk about the firearms ownership prohibition with OFP respondents. WATCH recognizes that even a decade after the prohibition was enacted under the Violence Against Women Act, no systemic method of enforcing it has been established. Thus, judicial officers may be reluctant to spend time on something that most likely will not be enforced. Some judicial officers may also be concerned that raising the

firearms issue—especially in greater Minnesota where many respondents are hunters—may make it more difficult for respondents to agree to necessary orders.

Still, it was startling that even when the petitioner's allegations involved firearms, the firearms prohibition was rarely mentioned. In one case, the petitioner alleged that the respondent had said he wished he had a gun "so he could blow [her] brains out." The OFP was issued, but the firearms prohibition was never mentioned. In another case, the respondent admitted that he had threatened to get a gun and kill the petitioner in front of their three daughters. Again, the order was issued, but the firearms prohibition was never mentioned. In a third case, the petitioner testified she was divorcing the respondent and that the respondent had a long history of abuse including past OFPs and at least three prior domestic charges where she was the victim. The petitioner said that she was afraid because the respondent had taken his guns and ammunition from their shared home in addition to the house and car keys. Once again, the judicial officer issued the order, but never said anything to the parties about the firearms prohibition.

WATCH also monitored cases where petitioners continued to be threatened with guns after an OFP had been issued. In one case, the petitioner testified that the respondent threatened her and said, "Did you forget I have a gun?" The respondent denied that this could have happened because he apparently gave up his gun in early 2004 when another OFP was issued against him. While the judicial officer explained no contact in greater detail, she did not reiterate the firearms prohibition to the respondent. In another case, the petitioner seeking another OFP against the respondent said that he fired a gun in a bar that she was in, even though a prior OFP was in place at the time. The order was issued, and in this instance the judicial officer did reiterate the firearms prohibition.

Children in OFPs

When petitioners and respondents share children, as in 53% of the hearings in the study, petitioners are often at greater risk for further abuse.⁷ Petitioners may be harassed, threatened, or harmed while exchanging children or when communicating about visitation arrangements. Some respondents also use children as a tool to further torment petitioners, keeping children longer than allowed or even threatening to or actually harming them. Perhaps recognizing these factors, some judicial officers were reluctant to assign temporary visitation at OFP hearings and told parties to go through court services, but others appeared eager to assign temporary visitation and did so.

Unfortunately, the safest way of communicating about the children was not always encouraged or adopted. Phone contact was actually suggested or urged in some cases where verbal threats were the primary form of abuse, in effect placing the respondent's considerations and convenience above the petitioner's safety. In the case where the respondent admitted that he had threatened to kill the petitioner in front of their three children, phone calls were allowed in order to communicate about the children. In a similar case, the petitioner testified that the respondent called her incessantly, was verbally abusive, and said that she wanted nothing to do with him. The order was issued, but the judicial officer allowed phone contact to discuss their child. In yet

⁷ This is one number that could be distorted down by the bus strike as petitioners with children may have faced more hurdles finding alternate transportation.

another case, the petitioner testified that the respondent, a drug user, had sexually abused their children, constantly threatened her, and that she wanted no contact with him. The order was issued, but the judicial officer asked the petitioner whether she “insisted” that the respondent not be able to call. The judicial officer then convinced the petitioner to accept phone calls from the respondent with a warning to talk only about the children.

Several judicial officers took it upon themselves to initiate a discussion of parenting time, even when the respondent-father had not indicated that this was an issue nor was it clear that he possessed that right. According to Minnesota law, an unmarried mother has all legal and custodial rights to the child. While the father may sign a recognition of parentage (ROP) form requiring him to pay child support, he does not have legal rights to a custody or parenting time order in an OFP proceeding unless he is adjudicated the father in a separate court proceeding.

This notwithstanding, several judicial officers went ahead and assigned visitation without adjudication against the wishes of the petitioner. Two specifically said that the ROP and adjudication are equivalent under Minnesota law. In perhaps the worst such case, the judicial officer assigned the unadjudicated father unsupervised parenting time while a reciprocal hearing was pending. At the first hearing, the child’s mother testified that the child’s father had beaten and threatened to kill her. The judicial officer issued the order and asked about assigning parenting time, to which the mother expressed reservations unless it was supervised. She explained that the father would probably take the child to his mother’s house, where the child would have contact with the father’s younger brother, who had a history of sexually abusing children. For the two days between hearings, the judicial officer assigned unsupervised visitation to the father. After the father’s hearing, the same judicial officer determined that the father should only have supervised parenting time as his sporadic presence in the child’s life had not equipped him to take care of the child alone.

This appearance of favoring fathers in assigning visitation may stem from some judicial officers’ belief that petitioners often use OFPs to get an advantage in custody proceedings. More than one judicial officer mentioned this during our meetings with them, but WATCH found little evidence to substantiate this disturbing perspective. In fact, *ex parte* orders were rarely dismissed due to allegations that did not meet the requirements of the domestic abuse statute. This belief, however, does explain why one judicial officer regularly and inappropriately asked the respondent whether the petitioner is a good parent.

Keeping the children longer than planned or threatening to or actually harming them is also an effective way for respondents to emotionally abuse petitioners. When petitioners express this fear, it should be taken seriously. The recent case of five-year-old Mikayla Tester, murdered by her father, John Tester, is a cautionary example. Tester had a long history of abusing Mikayla’s mother, Leigh Ann Olson, and recently Olson had expressed fears that Tester might harm Mikayla. During the WATCH study, one judicial officer told a petitioner expressing this fear that the petitioner had the burden of proving that the child would be in danger with the respondent. WATCH recommends that judicial officers comply with the statutory standard that the safety of the petitioner and children is the primary consideration when awarding temporary custody and parenting time.

Conclusion

WATCH is encouraged that some steps have been taken to enhance petitioner safety but is disappointed to find that many of the problems highlighted five years ago in the *WATCHPost* remain today. The gaps in parties' comprehension of the process, the underuse of the waiting rooms, the rarity in which the federal firearms prohibition is stated to respondents and the neglect of the potential dangers to petitioners caused by contact about children all represent continuing challenges to petitioner safety.

WATCH encourages the family court to make victim safety a priority. The following section of "Best Practices" summarizes WATCH's recommendations. Additional case examples can be found in Appendix C.

Best Practices

Improving comprehension

- **Reading the petition:** Judicial officers should ask every respondent if he has read and understands the petition. If he is not familiar with the allegations in the petition, they should be reviewed aloud to account for the possibility that the respondent cannot read or understand English.
- **Language:** Judicial officers should avoid using unnecessary legal language with parties who do not have representation.
- **Civil v. criminal:** Judicial officers should explain to parties that OFPs take place in civil court and not criminal court. They should remind respondents that having an OFP against them does not indicate a crime, but that violating one is a crime. Finally, and especially before evidentiary hearings, judicial officers should explain that there is a lower burden of proof in civil court than in criminal court. At minimum, judicial officers should respond to parties who use language that applies to criminal court, such as “pleading guilty,” “trial,” or “charges,” to make sure that parties understand that OFPs are civil actions.
- **The options:** Judicial officers should offer all three options to the respondent at the beginning of the hearing. To further aid in comprehension, judicial officers may explain the implications of each option to the respondent without showing a preference for any one option.
- **Firearms:** Judicial officers should inform respondents that having an OFP issued against them prohibits them from owning firearms.
- **Findings of abuse:** If there are findings of abuse after an OFP, the judicial officer should read and explain them to both parties.
- **No contact:** If a no contact order is issued, judicial officers should explain that the respondent cannot contact the petitioner directly or through others.
- **Violation of the order:** If the order is issued, judicial officers should tell respondents that they, and not petitioners, can be arrested and charged with a crime for violating it.
- **Interpreters:** All interpreters should be sworn in so that court records can be reviewed if a problem with interpretation arises. Respondents with interpreters should always be asked if they understand the petition. Judicial officers should speak deliberately to allow for more coherent interpretation. Most importantly, judicial officers should explain any final orders to the parties in the courtroom with an interpreter present.
- **Order translation:** OFPs for parties who need interpreters should be translated. At minimum, OFPs should be translated into the most commonly used foreign languages in Hennepin County. Judicial officers should inform parties of available resources if they have more questions.
- **Explanatory videotape:** To ease the burden on judicial officers, one judicial officer should provide an explanation of the OFP process on a video to be played on continuous loop in both petitioners’ and respondents’ waiting rooms.

Safety inside the courthouse

- **Calling parties:** Parties should be called several minutes apart to minimize the possibility of contact in elevators or narrow hallways. Only one set of parties should be called at a time.

- **Staggered exits:** Deputies or judicial officers should stagger the exits of parties out of courtrooms after hearings are over.
- **Waiting for evidentiary hearings:** Parties should be sent back down to the waiting rooms if their evidentiary hearing is delayed.
- **Waiting rooms:** Waiting rooms should be open and staffed in the afternoons to address lengthy calendars and scheduled evidentiary hearings.

Safety outside the courthouse

- **Petitioner requested dismissals:**
 - **Identification:** Judicial officers, their staff, or deputies should request picture identification to ensure that the person requesting the dismissal is the petitioner.
 - **Asking about threats:** Judicial officers should inquire about the petitioner's safety and whether the respondent or anyone else has threatened her.
 - **Amending the order:** Judicial officers should suggest amending the order so it allows contact but prohibits domestic abuse.
 - **No contact orders:** Judicial officers should look up whether the respondent has a criminal no contact order with the petitioner. If yes, they should explain that even if the OFP is lifted, the criminal no contact order remains in place.
 - **Addressing child-related contact:** Judicial officers should give more options to petitioners requesting dismissal due to difficulties arranging visitation, such as providing a more detailed parenting time plan or amending the order to allow contact but prohibit domestic abuse.
- **Responding to violations of the *ex parte* order:** Judicial officers should always respond to suggestions or admissions that the *ex parte* order has been violated, especially if a final order is issued.
- **Firearms prohibition:** Judicial officers should tell all respondents receiving orders against them about the firearms prohibition. At minimum, the firearms prohibition should be explained to respondents in cases where the allegations included abuse with firearms.
- **Gun housing:** The Hennepin County Family Violence Coordinating Council should continue to pursue housing for confiscated guns. A systemic method of enforcement will give the firearms prohibition teeth and judicial officers more confidence to talk about it.

Children in OFPs

- **Safety first:** If the respondent is awarded temporary visitation with children-in-common, the safety of the petitioner and children should be the primary consideration.
- **Parenting time details:** If the respondent is given temporary visitation with any children, the judicial officer should help parties come up with specific guidelines for communicating about and exchanging of children in order to minimize the possibility of contact. Judicial officers should ask the petitioner how these issues can be resolved in a way that feels comfortable to her and then work through any problems the respondent has with the arrangement.
- **Unadjudicated dads:** Unadjudicated respondent-fathers should not receive parenting time unless it is brought up by one of the parties at the hearing and the petitioner agrees to allow it. In this circumstance, the OFP should have clear language reflecting that the parenting time is the result of the petitioner's agreement and not ordered by the court.

Appendix A

The Minnesota Domestic Abuse Statute

In Minnesota, domestic abuse is defined as the following between family or household members:

- Physical harm, bodily injury, and assault including hitting, kicking, pushing, stabbing, and strangulation;
- The infliction of fear of imminent physical harm, bodily injury, or assault;
- Terroristic threats, such as threats to commit a crime of violence, bomb threats, or brandishing a firearm;
- Criminal sexual conduct such as forced sexual contact or any other form of sexual contact with a minor;
- Interference with an emergency call.

“Family or household members” include spouses and former spouses, parents and children, persons related by blood, persons who have a child or expected child in common, persons currently or formerly involved in a significant romantic or sexual relationship and persons who share a household.

A link to the complete domestic abuse statute can be found at the WATCH website www.watchmn.org.

Appendix B

Volunteer Profiles⁸

Volunteer I is a family advocate at a battered women's shelter. She is a student at the University of Minnesota majoring in psychology, French, and art. She has also worked as a college counselor for disadvantaged youth. After completing monitoring for the OFP project, she wrote: "The victim is not the cause of the violence, and should not be blamed for it. We have an obligation in our society to be fair. We have an obligation to the victim of domestic violence to prevent the injustices of his or her personal life from also becoming an injustice of our judicial system."

Volunteer II is a registered nurse. Her prior volunteer experience includes five years as a reading buddy at an elementary school. She writes, "As a woman in this society, I feel a deep concern and commitment to the issues of violence and child abuse/neglect."

Volunteer III is a domestic abuse advocate. During the study, she was a student completing her undergraduate degree in criminal justice and psychology. As a leader in her sorority, she initiated many community service projects. She has worked in the Freeborn County Crime Victims' Crisis Center.

Volunteer IV is a student majoring in Spanish and psychology at the University of Minnesota. She has also volunteered at a nursing home, a hospital, and her church.

Volunteer V is a television and film producer. As a University of Wisconsin graduate, she majored in communications and English. She has also worked with a program for troubled teens. After completing monitoring for the OFP project, she said, "One of the first problems which was clearly apparent was the extreme difference in how each judge or referee would run his or her courtroom... This made me wonder if the judges and referees speak to one another or share stories ... it did not appear to be the case. I often left the courtrooms with feelings of frustration. Certain judges and referees would listen to petitioners' stories of threats, assaults, verbal and physical abuse by the respondents and feel the evidence was lacking to grant the OFP."

Volunteer VI is an assistant teacher at a program that helps single moms transition to independence. While volunteering for the OFP project, she was a student majoring in women's and gender studies. She is proficient in Spanish.

Volunteer VII is a former probation officer. She has an undergraduate degree in psychology from the College of St. Catherine and a master's degree in social work from the University of Minnesota. She has worked for the American Red Cross and as a Peace Corps volunteer in Poland.

⁸ The remaining two monitors were Priya Outar, WATCH Court Monitoring Coordinator and Marna Anderson, WATCH Executive Director.

Volunteer VIII is a former advertising executive and current WATCH board member. After studying advertising and journalism at the University of Minnesota, she worked for fifteen years in business and advertising.

Volunteer IX is a paralegal and a licensed foster parent. She has also volunteered as a Big Sister and for the Domestic Abuse Project. She said, "I became interested in the OFP project because I had long sensed that these hearings were often invisible to everyone except the parties. More often than not, the parties did not have lawyers, and usually attended alone, or with an advocate... For the most part, I found that while judges and magistrates conduct their hearings differently, they all treated the parties fairly and respectfully. WATCH's study was directed toward identifying areas where improvement could be made, and I believe it was successful in that regard. I hope that all court personnel are receptive to the suggestions/criticisms/opinions contained within to make a good process even better."

Volunteer X is a retired public educator. He has a master's degree in counseling and has worked as both a teacher and principal. He also volunteers for the Council for Crime and Justice.

Volunteer XI is a full-time faculty member at the University of Minnesota. In addition to her assignment in her primary academic department, she is also a faculty fellow at the Law School. She writes, "I watch because I feel that public presence in the courtroom is essential to ensure that the rights of women and children are consistently addressed and protected. I believe that even the best judge cannot know all that happens in her or his courtroom, let alone the courtrooms of others. I became involved in the OFP project because I think that while the courts have made much progress in handling OFPs...much is yet to be done to provide consistent care. During this project, I discovered the great inconsistencies that occur in OFP hearings... I believe that too often the petitioner is pressured to have contact with the respondent about issues involving parenting time; thus, a petitioner may be forced to have telephone or email contact even though she or he prefers not to have that contact."

Volunteer XII is a student majoring in gender studies and sociology. She has volunteered at the Rape and Domestic Abuse Center in her hometown.

Volunteer XIII is a retired businessman and *guardian ad litem*. He has a master's degree in business administration.

Volunteer XIV is a recent graduate of the College of St. Catherine, where she majored in philosophy. She is proficient in American Sign Language and has also volunteered in an eldercare home.

Appendix C

Thumbs up⁹

The judicial officer confronted the respondent about a comment he made when he was served, "That's not gonna save her ass." The respondent said he was not referring to the petitioner, and the judicial officer told him not to say things like that no matter whom he is talking about.

The petitioner was married to the respondent and they had two children. The petitioner had two prior orders dismissed against the respondent, but was present for this initial hearing. The respondent was not present. The judicial officer told the petitioner, "At some point in your life, you're going to make a decision about this relationship. Repeat domestic assault leads to bad things ... You need to address the central question of continuing a relationship with this man."

The petitioner testified that the respondent had beaten her. The respondent said he had beaten her to keep her from driving drunk. The judicial officer pointed out that there were many other ways he could have dealt with the situation.

Thumbs down

The WATCH volunteer noted that this case was dismissed over an hour after the hearing was scheduled due to the petitioner's absence. An hour after the dismissal, the petitioner went to the courtroom and asked about the status of her case. She said that she was in the waiting room when the respondent was called, but that she was not called. When told of the dismissal, the volunteer wrote that the petitioner became angry and stormed out saying that she would file in St. Paul when she moved there in a week.

Both parties petitioned for an OFP on behalf of their child in common, and both were granted temporary sole custody. The judge signing the second *ex parte* order was responsible for vacating the first custody order before issuing another, but did not. The child, whose primary parent was his mother, was with his father at the time of the hearing.

The respondent was absent from the scheduled extension hearing and the order was issued by default. The judicial officer realized that an old form directing the respondent to the Government Center instead of the Family Justice Center had been used to prepare the *ex parte* order. While the judicial officer continued the case and temporarily extended the order, the delay caused the petitioner inconvenience and frustration.

One judicial officer occasionally warns petitioners that an OFP is a shield and not a sword. As she told one petitioner, "It's a terrible thing to call police if he doesn't violate to get him in trouble because you're mad at him. If you call on Friday, he's in jail all weekend. It needs to be a material violation."

⁹ Again, judicial officers are presumed female to preserve anonymity.

The judicial officer issued the order against the respondent, a police officer. The respondent was told that he could obtain property at the home of the petitioner if accompanied by a police officer. The order was not explained. The judicial officer did not address the possible conflict of interest for the respondent if he had to ask a colleague to assist him.

The petitioner alleged that the respondent, her current husband from whom she was separated, broke into her home repeatedly and stole her things. The WATCH volunteer noted that, instead of solely discussing the allegations in the petition, the judicial officer took the opportunity to "scold" the petitioner for introducing the child-in-common to her new boyfriend. The judicial officer further recommended that the respondent discuss the introduction of new partners with the petitioner. The order was not issued as the judicial officer did not think that the burglaries met the definition of domestic abuse according to the statute.

The petitioner was present, but the respondent was not. As the judicial officer was preparing the order, she asked the petitioner whether she was aware of the respondent's criminal history of domestic assault. The judicial officer asked why the petitioner had not left the relationship before and told her that her actions did not make sense.

The respondent threatened to "beat [petitioner's] ass," beat her son, and blow her house up. The judicial officer dismissed the order stating that the statute did not support issuing an OFP. The judicial officer told the respondent, "This woman is really worried about her life. I believe you need to stay away from her."

The judicial officer interrupted the respondent during his testimony and asked how long it would take to tell his story. Several minutes later, after the respondent completed his testimony, the judicial officer said, "You could have told me that in two sentences. I need to know if you were abusive."

