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FAMILY VIOLENCE

September, 1978

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FAMILY VIOLENCE

I. OVERVIEW

A. Definitions

Traditionally the family has been defined as the basic social unit having as its nucleus two or more adults living together and cooperating in the care of their own or adopted children. Over time, social trends have called for an expansion of that definition to take into account single-parent families and childless couples. Society has allowed for a wide variety of child-rearing practices and modes of family interaction. None-the-less, through instituted laws and conventions, society has consistently sought to protect individual family members from becoming or being victims of harmful physical, sexual or emotional interaction. A dysfunctional family is one which has failed to stay within these social boundaries. Violence between family members is one sign of the dysfunctional family.

Family violence is defined to include the physical, sexual or emotional abuse of the child or adolescent, neglect of the child or adolescent and spousal abuse. Given the intimacy and constancy of contact within the family, violence between any two or more members will affect all family members, thereby creating dysfunction for the entire unit. The interrelationship of the individual components of family violence, i.e., child abuse, spouse abuse, etc. is an essential, often overlooked, characteristic. Both in terms of actual occurrence and general consequences of abuse the individual components are very related. Since the family is the fundamental unit around which all social institutions revolve, a dysfunctional family has society-wide ramifications.

Family violence is an area permeated by myths. One of the most common misconceptions relegates family violence to the province of a particular income group or cultural community. However, statistics show that the phenomenon of family violence crosses all demographic lines. In addition, while chemical dependency may be highly correlated to violence in the family, there is not a causal relationship.

B. Consequences

An important consequence of family violence is its cyclical nature. Research indicates that child abusers often have a history of being abused as children. There is a similar correlation between spouse abuse and both victim and offender's childhood experience. The interruption of a child's normal sexual development as occurs in sexual abuse and incest is particularly harmful. A number of studies point out a correlation between sexual deviances, e.g., promiscuity, frigidity, homosexuality and childhood experiences of sexual abuse. Family violence also ultimately impacts the criminal justice system. Persons who emerge from a violent family background - either as victim or witness - are found in disproportionate numbers among the following offender groups: juvenile delinquents, juvenile prostitutes, status offenders such as truants and runaways.

On a wider scope - the multi-faceted problems exhibited by the dysfunctional family lead individual members into contact with a number of different subsystems, i.e., criminal justice, juvenile justice, social services,

mental health, chemical dependency treatment. Often several subsystems are involved in tracking different members of the same family.

C. Problem Statements

Many of the same problems affecting family violence in general also are problems of each of its specific aspects. Therefore, to avoid repetition these basic overall difficulties will be dealt with in this section. Problems particular to the individual components of family violence will be dealt with in later sections.

1. General

- . The state is reluctant to formulate policies on the family; in particular, delineating what is and is not acceptable interaction between family members. This creates difficulties in defining the point for intervention; where parental discipline crosses over into abuse and where nurturing affection crosses over into sexual molestation.
- . The essential inter-relatedness of the areas of family violence is largely unacknowledged in the formulation and implementation of subsystems' policy. The system is fragmented in its intervention, therefore family violence is dealt with in a piecemeal fashion. The family member who contacts the system is the one provided for, thus the fundamental family dysfunction often goes undetected and untouched.

2. Legal

- . Statutory and case law is clear on the limitations of interaction between nonrelated persons, it is less clear on defining and enforcing the boundaries of acceptable behavior within the family.
- . The law is ambiguous regarding the limits of interaction within an institutional setting.
- . Practitioners in the field agree there is a phenomenon which could be called emotional neglect and abuse which may have damaging consequences. However, this phenomenon has not been legally defined.

3. Knowledge

- . The scope of the problem of family violence is ill defined, in part because information has not been gathered. Therefore, the extent of family violence is difficult to assess.
- . There is a lack of community awareness about the magnitude of family violence. In general, the public is reluctant to acknowledge the incidence of family violence or its attendant issues.

- . Practitioners are not adequately sensitized to either the individual areas of family violence or to the inter-relatedness of these areas. Such lack of awareness creates problems in the reporting, intervention and treatment of violent families.

4. Processing of Services

a. Reporting

- . All incidences of family violence are under-reported. Until recently reporting was not mandated (1963 child abuse, 1975 sexual abuse of children, 1977 spouse abuse). It is difficult to determine if the recent laws will sufficiently illustrate the problem.
- . Often the family members, including the victim, are reluctant to report abusive behavior. This stems from a number of factors including:
 - peer group or family pressure
 - shame or embarrassment on the part of the victim (particularly in sexual abuse)
 - mistrust of those mandated to receive reports
 - unwillingness to press criminal charges against a relative
 - fear of breaking up the family
 - reporting can be self-incriminating (as in the case of AFDC mothers who are abused by their spouses/boyfriends)
 - the behavior is considered by the families to be acceptable.
- . There is practitioner reluctance to comply with the mandated reporting law. Some of the reasons for this are:
 - fear of legal involvement
 - lack of feedback on reports
 - professional ethics about confidentiality
 - sense of futility about the system being able to adequately cope with the problem
 - the reporter fears being identified to the family
 - lack of knowledge of reporting laws.
- . The confidentiality statutes create problems in substantiating reports by denying access to files which may provide evidence of past abuse

b. Intervention

- . There is a general lack of coordination of the policy and operation of the various subsystems. Often two subsystem goals regarding family violence may duplicate each other or more damaging, work against one another. For example, the Department of Corrections advocates assisting the victim of spouse battering, yet some police departments refuse to transport victims to a shelter facility. Problems arising from violence in the family are multi-faceted and thus are best dealt with through a multi-disciplinary approach.

- . Each subsystem is oriented to intervention after the fact, not early identification and primary prevention.
- . The lack of systems-coordination is exacerbated by the lack of any clear legal mandate for one particular agency to do primary intervention.
- . Practitioners frequently do not understand or are not comfortable with exercising the responsibilities they are charged with.
- . Neither the criminal justice nor the juvenile justice system is conducive to dealing with the problems of family violence. In many instances it is the victim, not the offender, who is adjudicated. The legal system does not take into account the difficulties of a child confronting its parent, etc.
- . The slowness of the legal system in processing incidents of family violence is a problem given that the crisis nature of most cases requires immediate response.
- . The victim places him/herself in immediate danger upon the filing of a report. Therefore, the present lack of emergency shelter facilities for family crisis victims is a crucial gap in intervention.

c. Treatment

- . There is a general lack of treatment facilities and programs geared to the problem of family violence. Although most practitioners agree the real need is for a treatment plan that deals with all members of the dysfunctional family, the scarcity of victim or offender oriented treatment programs is an immediately crucial area. This, in part, accounts for the inadequacies in reporting and intervention. For the current lack of alternatives leaves practitioners reluctant to send either a victim or an offender into a system that offers no resolution of the problem. As it now stands, in most cases it is the victim who is removed or must remove themselves from the abusive situation. Thus the abuser's behavior remains unaddressed.
- . The fact that there is no legal leverage to get abusive family members into treatment or diversionary programs means that the likelihood of successful utilization or completion of existing programs is diminished.
- . The outcome of existing treatment programs has not been effectively evaluated.
- . Chemical dependency treatment programs are reluctant to address abusive behavior.
- . There is a lack of community or, more importantly, practitioner awareness about existing treatment facilities.

- . Victims of family violence often need services which they may not be able to afford. There is a need, especially, for funding for hospital bills and legal services for families not on welfare.

D. Statistics

One of the most serious problems in describing or defining family violence is the lack of information available. Incidences of spouse battering and child abuse, although under-reported, are recorded. However, there is virtually no information available on the inter-relatedness of family violence in Minnesota, nor is there information on the actual incidence of violence in the family. Because there is no documentation of family violence as a whole, statistics will be presented in each sub-category.

II. SPECIFIC ASPECTS OF FAMILY VIOLENCE

1. Child Abuse

A. Definitions

- . The neglect of children includes physical, sexual and emotional abuse as well as physical and emotional neglect of the child by one or both parents or caretakers.
- . There are varying degrees of severity of child abuse. This in part depends on whether the abuse is the result of bad parenting, i.e., parent knows of no alternatives beyond physical discipline, or whether the abuse results from the parent's inability to deal with his/her own frustrations. This differentiation is relevant in terms of the level of intervention and subsequent treatment.
- . In all cases the child is the innocent victim.

B. Consequences

- . Permanent physical injury or death
- . Learning disabilities - results of a study on learning disabilities done in Washington County indicate such a correlation
- . Emotional problems
- . Manifestation of disturbed or retarded behavior
- . A University of Minnesota study of elected mutes is finding that a very high percentage of children who choose not to talk were abused
- . High proportion of juvenile delinquents and status offenders were abused as children. Additional correlation between juvenile prostitution and incest as a child
- . Delinquent children who were reported as abused or neglected tend to be more violent than other delinquents. A study in New York found that children who were abused "are over-represented among the group of juveniles who commit, or are charged with committing, violent acts."
- . Sexual deviances

C. Problem Statements

1. Legal

- . The law defines what constitutes assault and battery between two adults, but there is no statutory definition addressing assault and battery between a child and adult authority figure.
- . The guardian ad litem does not adequately advocate for the child in court. Its services tend to be retroactive instead of proactive.

2. Knowledge

- . As in all areas of family violence, the incidence of child abuse is under-reported. There is insufficient research on the causes, effects or characteristics of the physical, sexual or emotional neglect and abuse of children. Both the community and practitioners need to be educated in the issues of child abuse and neglect.

3. Processing of Services

a. Reporting

- . Under-reported for the same general reasons that affect family violence as a whole. However, one cause specific to child abuse is that many professionals feel treatment alternatives are either not available or not effective.

b. Intervention

- In addition to the problems listed under family violence:
 - . There is a problem identifying the victims of child abuse; particularly in cases of sexual abuse. This is compounded by the fact that generally practitioners lack the training to spot or deal with child abuse.
 - . The evidentiary process is difficult in child abuse and neglect. Problems arise because social services sometimes undertake the investigation of child abuse and neglect reports although they are not adequately trained in evidentiary techniques.
 - . Termination of parental rights is difficult for two reasons:
 - social services may not advocate it for the child
 - the courts are reluctant to make such drastic intervention
 - . Police are mandated by law to destroy unsubstantiated reports of child abuse; therefore, it is difficult, in many cases, to document a history of abusive behavior.

c. Treatment

- . The lack of offender/victim oriented treatment facilities is especially critical in child abuse because:
 - most recognize that prison is not a desirable alternative for the offender, except in the most severe cases, but there is no way to force the offender into treatment

- . Placement in foster homes raises the following problems:
 - placement is not temporary. The average stay in Minnesota is over 50 months
 - there is little information about the effect of foster care on children
 - foster parents frequently are not instructed as to the particular problems affecting the victim of child abuse
 - controls of foster care are inadequate

D. Statistics

Department of Public Welfare figures for child abuse (physical, sexual emotional abuse and neglect) for 1977 show that 1,520 cases were reported; and of these, 955 cases involving 1,126 children were substantiated.

In 1976, 906 incidents were reported of which 614 cases were substantiated, involving 743 children. Of these, 329 were male, 412 female and two unknown. Sexual abuse accounted for 180 of the reported cases. In this group, females were more frequently abused than males. Almost half the females identified were from 12 to 17 years old. Among this group of adolescent females, almost half the reported injuries involved sex abuse.

The following shows the treatment victim received:

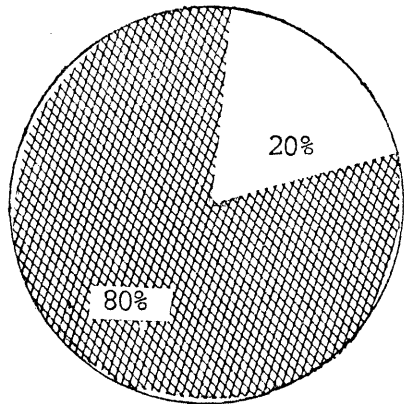
- 438 received no treatment
- 213 moderate treatment
- 76 serious/hospitalized
- 9 fatalities

The offenders included both male and female, natural and step-parents: 65% male, 35% female. Excluding all but natural parents shows 55% male, 45% female.

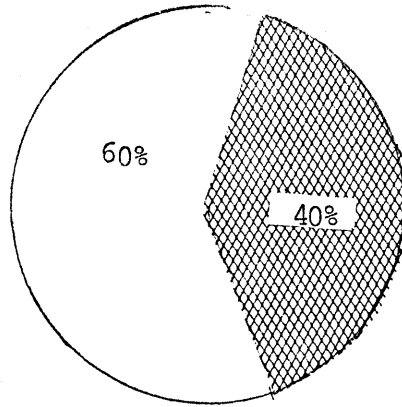
In families where some form of child abuse occurred: 5.4% of the parents had a history of abuse as children; 6% had chemical dependency problems.

Sexual abuse of children is virtually undocumented in the State of Minnesota. However, Hennepin County reported 195 cases of sexual abuse in 1977, an increase of 227% in two years. In 91% of the cases reported in 1977, the perpetrators were males. Sixty-five percent of the offenders were immediate family members.

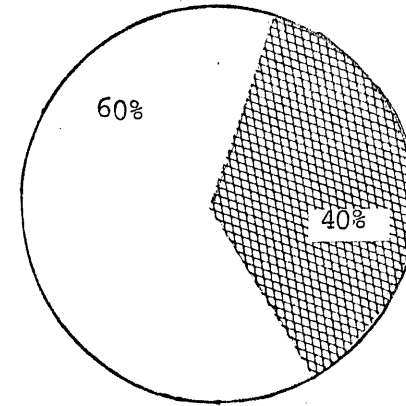
Figure one provides a regional description of the incidence of reported child abuse cases by region.



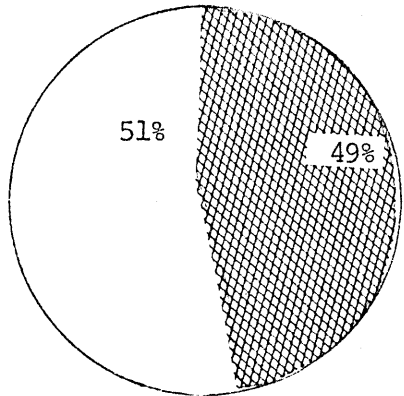
Region 1 (N=5)



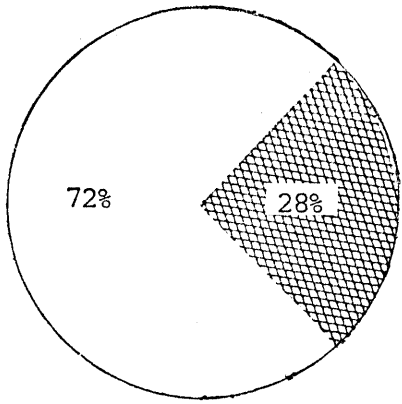
Region 2 (N=9)



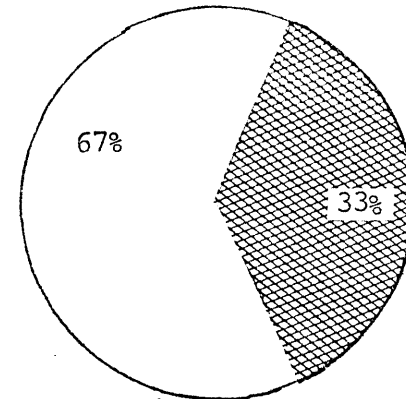
Region 3 (N=116)



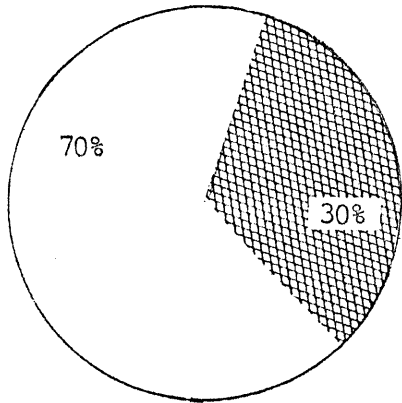
Region 4 (N=19)



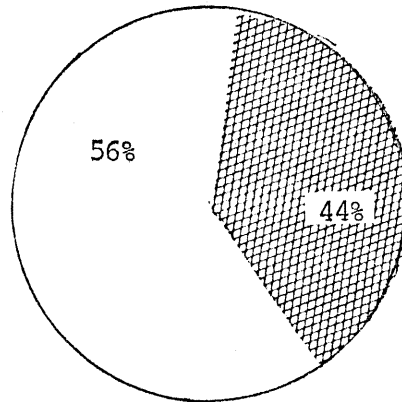
Region D (N=49)



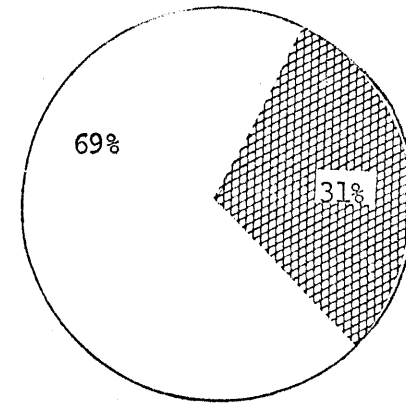
Region E (N=28)



Region 9 (N=13)



Region 10 (N=73)



Region 11 (N=535)

■ Unsubstantiated
□ Substantiated

Fig. 1. Proportions of substantiated and unsubstantiated child abuse reports by criminal justice planning regions.

The proportions of unsubstantiated reports vary greatly from region to region. It is not clear why this occurs.

Figure 2 provides a description of child abuse victims by sex and age. Note the apparent drop by age seven.

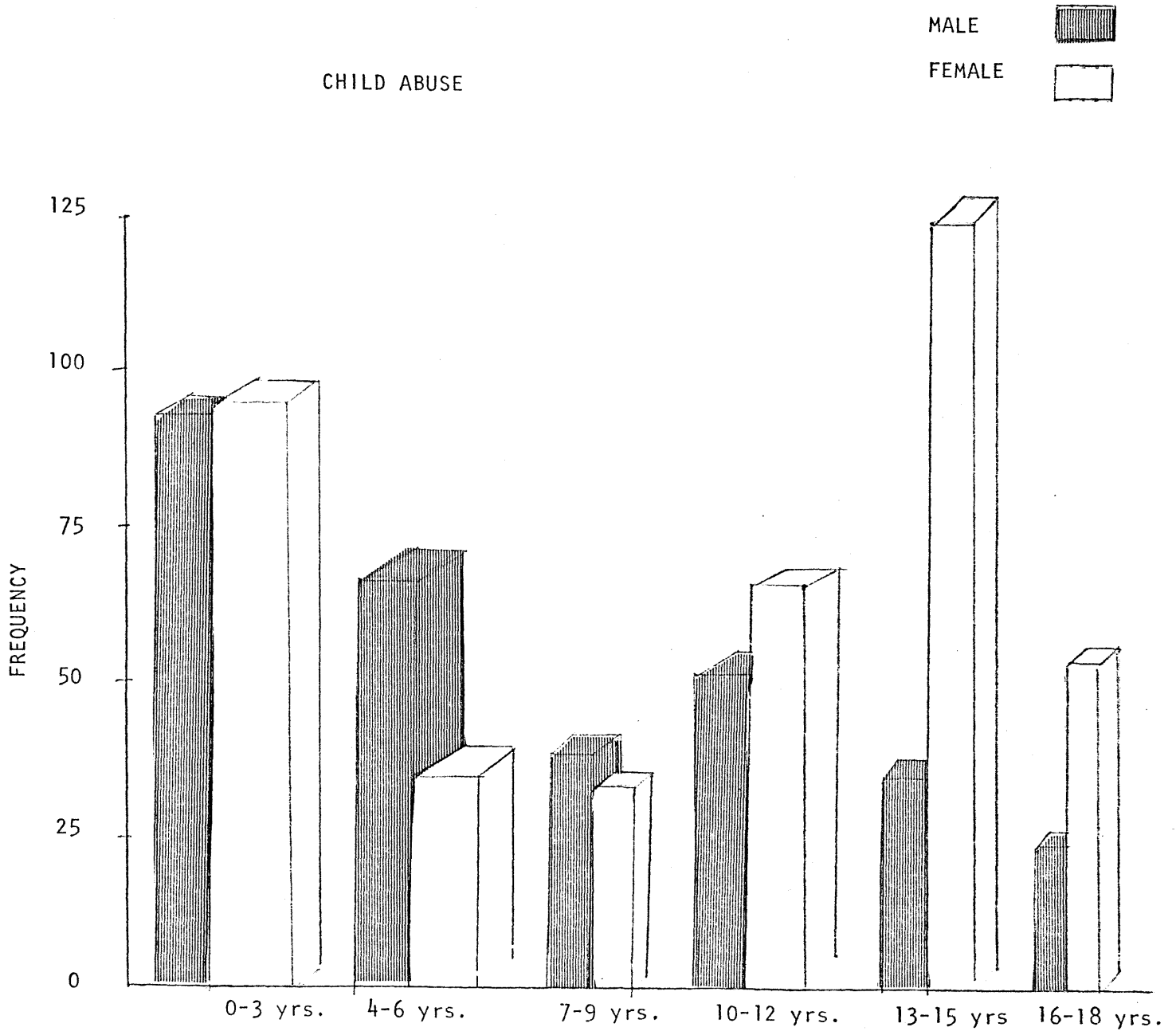


Figure 2. Incidence of male and female child abuse victims by age intervals for 1976.

Figures 3. and 4. and Table 1 provide a description of child abusers. These statistics are based on reported cases only.

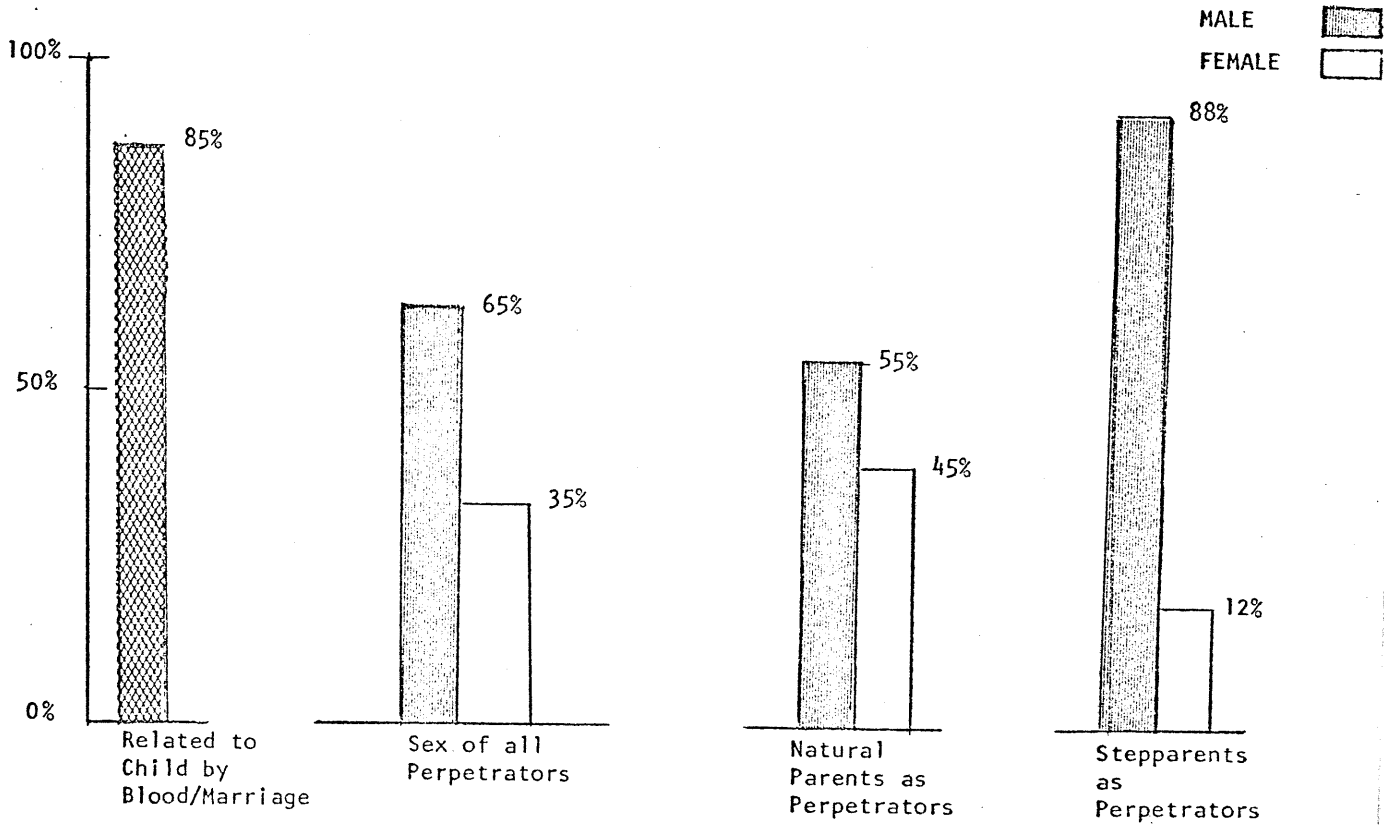


Figure 3. provides: 1) relationship of perpetrator to child by blood or marriage; 2) sex of all perpetrators; natural parents as perpetrators by sex; and 4) stepparents as perpetrators by sex.

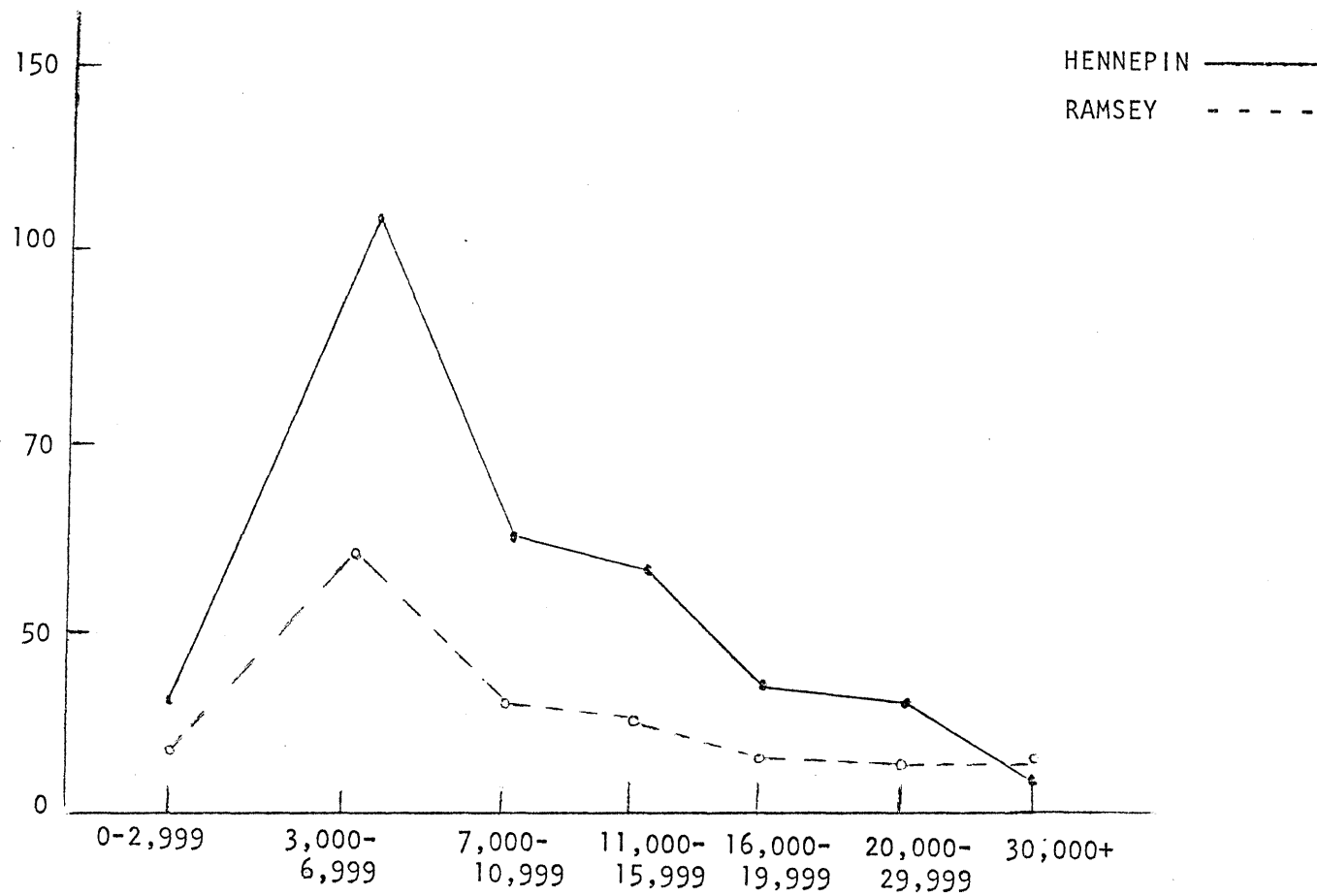


Figure 4. provides the income distribution of families in Hennepin and Ramsey Counties reported to Child Protection Services for Child Abuse.

TABLE 1

CHILD ABUSE OFFENDERS

Relationship of Perpetrator(s) to Child
by Sex of the Perpetrator

1976

	<u>MALE</u>	<u>FEMALE</u>	<u>TOTALS</u>
Natural parent	288	238	526
Adoptive parent	14	6	20
Stepparent	107	15	122
Foster parent	6	5	11
Grandparent	4	1	5
Sibling	12	1	13
Babysitter Daycare	14	11	25
Other relative	22	3	25
Institution staff	1	0	1
Teacher	1	0	1
Natural parent out of home	1	0	1
Unknown	66	7	73
Other	<u>7</u>	<u>2</u>	<u>9</u>
	543	289	832

(There were 4 of unknown sex)

SOURCE: State Department of Welfare Annual Report on
Child Abuse (1976)

2. Adolescent Abuse

A. Definitions

A distinction has been drawn between the abuse of children and the abuse of adolescents for the following reasons:

- . Adolescent abuse includes physical, sexual and emotional abuse. The abuse inflicted is often sexual or emotional and therefore harder to substantiate. Though incest will be treated as a separate issue below, the incestuous relation is, in the majority of cases, initiated upon the child's entry into adolescence.
- . Approximately half of the victims suffered no abuse until entering adolescence.
- . Although this has not been statistically documented, it is the feeling of many practitioners that there is a higher proportion of girls. Abuse takes the form of sexual advances on the part of the father figure and/or repressive rules regarding her coming and going.
- . Adolescent abuse excites less public sympathy even though the results can be equally destructive.
- . Adolescence is a critical period in sexual and moral development. Thus the complications arising from abuse can be especially harmful to the child's identity, self-worth and self-esteem.
- . Adolescents tend to react to abuse in ways that have more criminal justice consequences.

B. Consequences

- . Interruption of the child's normal sexual development can lead to later sexual deviancy
- . Extreme emotional stress
- . Self-destructive behavior, such as drug abuse, usually coupled with some type of status offense.

C. Problem Statements

1. Legal

- . The law is unclear as to what constitutes assault and battery between an adolescent and an adult authority figure.
- . The law does not define what constitutes emotional abuse and neglect.

2. Knowledge

- . The area of adolescent abuse is under-documented, under-researched and largely unacknowledged by the public or practitioners. This is particularly true as regards sexual abuse.

3. Processing of Services

a. Reporting

- . Adolescent abuse is under-reported for many of the same reasons as child abuse. However, unlike children who must rely on others to do the reporting, adolescents may choose not to report because of peer pressure.

b. Intervention

- . Practitioners are often reluctant to intervene, especially because the adolescent appears less victimized than a child might. A common assumption is that the adolescent can leave the abusive situation. In fact, this often occurs.

- . The juvenile justice system emphasizes the juvenile's delinquent behavior and fails to take into account underlying causes. Many adolescents adjudicated as delinquent or dependent when convicted of delinquency or a status offense are in fact reacting to their victimization, i.e., victim becomes offender.

- . The adversary court system is not conducive to an adolescent pressing criminal charges against his/her parent.

c. Treatment

- . The lack of treatment programs is critical, especially because many practitioners feel sexual abuse is highly treatable.

d. Statistics

- . Although adolescent abuse is a distinct problem, statistics are virtually unavailable. Figure 2 provides a victim description of abuse including adolescents. Please note the increase in abuse of adolescent girls. Many practitioners and professionals feel that this includes proportionately higher sexual abuse.

- . Ramsey County Welfare Department statistics show that of reported abused children 20% were 9-13 years old; 28% were 13-16 years old and 10.5% were 16-18 years old. (See Figure 2.)

3. Incest

A. Definitions

- . Incest involves the sexual relations between a child or adolescent and any member of the unit recognized as his/her immediate family. Although mother/son incest does occur, the most commonly documented form is father/daughter.
- . The characteristics of the incestuous family include an exaggeration of the male/female roles, a skewed value system which rationalizes intra-familial sexual relations, of an awareness, if not acknowledgement, of the incestuous relation on the part of all family members, and an extreme family closeness which works to keep the incestuous relations secret.
- . Incest has been defined as a separate issue because it is the form of family violence in which the whole family is most affected. Those family members not directly involved in the incestuous relationship often indirectly facilitate the incest. This is relevant in terms of treatment.
- . If there is no intervention:
 - often siblings will begin approaching the victim
 - the incest will carry over into the next generation sexually, i.e., grandfather/granddaughter incest
- . The child/adolescent is an unwilling victim.

B. Consequences

- . The harmful implications of interrupting a child's normal sexual development, such as promiscuity or deviancy, are complicated by the familial bonds.
- . Emotional problems - i.e., victim's sense of guilt or sexual ambivalences.
- . Venereal disease, pregnancy.
- . Incest affects all members of the family; therefore, the different family members tend to contact with various components of the system, i.e., criminal justice, juvenile justice, mental health, etc.

C. Problem Statements

1. Knowledge

- . The extreme reluctance of the public to acknowledge incest as a problem has meant that it is inadequately documented in Minnesota.
- . There is a basic lack of knowledge as to the causes, effects and characteristics of incest.

2. Processing of Services

a. Reporting

- . Problems with reporting arise from:
 - victim unwillingness because of guilt or fear of breaking up the family
 - reporting may be self-incriminating as in the case of some AFDC mothers
 - reports are often made years after the incident(s).

b. Treatment

- . Often family members, including the victim do not want criminal prosecution, they just want the incest to end. At present there is very little available, particularly in offender-oriented treatment.
- . Practitioners agree that as regards incest the real need is for treatment serving the incestuous family as a whole.
- . Incest cases should be evaluated on the criteria of treatability.

D. Statistics

Of all the categories in family violence, incest is the least documented. Researchers estimate that incest effects ten to sixteen percent of all families.

Some data has been compiled by the Ramsey County Department of Mental Health. These statistics show that the duration of abuse that occurs before intervention averages two and a half years. In 52% of the cases, there has been incest with other children in the family. In 82% of the cases, the incest started with the oldest child. Physical abuse is present in 47% of the cases. The average age at the onset of the incest is ten and one half years. Finally 26% of the victims ran away from home at least once.

Christopher Street, a counseling program for incest victims, reports that 66% of their clients come from chemically dependent families. Forty-seven percent of their clients were sexually abused by more than one person. The abuse took place inside the victim's home in 88% of the cases. One surprising finding was that 37 victims or 22% of their clients were labeled retarded.

Although much of this information is not substantiated through scientifically gathered data, it certainly warrants a closer look.

4. Spouse Abuse

A. Definitions

- . The discussion of spouse abuse will be primarily limited to the abuse of women because:
 - there is little documentation of the problem of battered men
 - the woman's frequent financial dependency and child-rearing responsibilities place her in a particularly vulnerable position
- . Often the children in the family are also being abused
- . Chemical dependency or unemployment may frequently contribute to spouse abuse

B. Consequences

- . Physical and/or emotional harm to the woman
- . Effect on child as witness to violence helps perpetuate the cycle of violence
- . Abused wife has three alternatives for change
 - stay at home and attempt mediation
 - leave and file for divorce
 - press criminal charges

C. Problem Statements

1. Legal

- . The definition of simple assault as a misdemeanor inadequately addresses the problem of domestic violence. However, aggravated assault is often not applicable. This frequently hampers police intervention.

2. Knowledge

- . There is very little data on spouse abuse.
- . This is in part due to the fact that incidences reported are often buried in the assault statistics.

3. Processing of Services

a. Reporting

- . Seriously under-reported for basically the same reasons that affect all areas of family violence.

b. Intervention

- . Police are reluctant to answer domestic violence calls because:
 - sense of futility
 - domestic calls are the most dangerous calls for service
 - do not want to intervene in family dispute

- . To get a restraining order, a wife must file for divorce but many do not want a divorce.
 - . Victim services do not include battered persons as members of their target population. The Crime Victims Reparations Board specifically excludes spouses from their services except under extraordinary circumstances.
 - . Projects such as Citizens Dispute Settlement mediation are not widely available throughout the state.
 - . The cost of pursuing various legal alternatives is often a barrier.
 - . Police records are inadequately maintained thereby impeding documentation of a pattern of domestic violence.
 - . It is difficult to enforce removal of the offender.
 - . There is no uniform medical protocol for handling cases of battering.
 - . The victim, should she decide to press criminal charges, has little or no input until trial stage.
 - . The battered wife has difficulty in receiving financial assistance from D.P.W. The current seven to ten day wait for financial assistance does not address the crisis nature of the situation.
- c. Treatment
- . Even if the victim should decide to seek treatment, the current lack of facilities offering treatment for the offender means the pattern of domestic violence will be unchanged.
 - . There is no single agency willing to assume the financial responsibility for treatment.

D. Statistics

Until the 1977 Legislature established a mandatory reporting system for cases of spouse abuse, there was little or no specific reporting of the problem in Minnesota. In view of this, statistics are relatively difficult to obtain. A summary of the data collected so far reveals 814 total reports in a two month period. It should be noted that during this period the system was not fully implemented in many of the state's larger agencies, so the dimension of the problem is under-recorded. The reports, broken down by medical and law enforcement reports show 381 by the former and 433 reports by the latter. Reports broken down geographically yield 447 reports in the Metro Area and 328 outstate reports.

One piece of noteworthy data provides the relationship of assailant to victim. Both medical and law enforcement officials, throughout the state, indicate that over 48% were cohabiting spouses, another eight percent were separated spouses, and 19% of the assailants were cohabiting friends of the victim.

Data from medical reports provide information on injury sustained: 78.3% of victims had bruises or lacerations, while another 9.7% sustained fractures. Law enforcement agencies reinforce this finding with their data reporting 50% of the victims with visible injuries and another 19% with a complaint of injury.

While the data is limited, it does give an indication of the widespread problem of spouse abuse. The number of reports, in the first two months of the statute on reporting, on its own merit, warrants further investigation.

Other statistics, both national and local, confirm the magnitude of the problem. In Hennepin County, according to a study done by the United Way, 119 cases of spouse abuse were identified by participating Hennepin County hospitals in a three month period. One-third of the women completing a survey by the United Way Task Force on Battered Women reported that they had been hit at least once by their husbands or boyfriends. At Harriet Tubman Shelter in Minneapolis, each month approximately 100 requests for emergency shelter are received. Of these, three-fourths must be turned away.

In one of the most extensive studies yet done on intrafamily violence, Richard Gelles discovered that "of the sample of 80, 44 (subjects) reported one or more instances where husband or wife used some form of physical violence. Of these 44 families, 21 (26% of the sample) were participants in husband-wife assaults on a regular basis (defined as ranging from half a dozen times a year to daily)." Even more revealing is Gelles's finding that 37% of the families studied who had no public record of violence had experienced some incident of husband-wife violence.

According to both law enforcement and medical records, the majority of reported spouse abuse cases occur in the Metro Area.

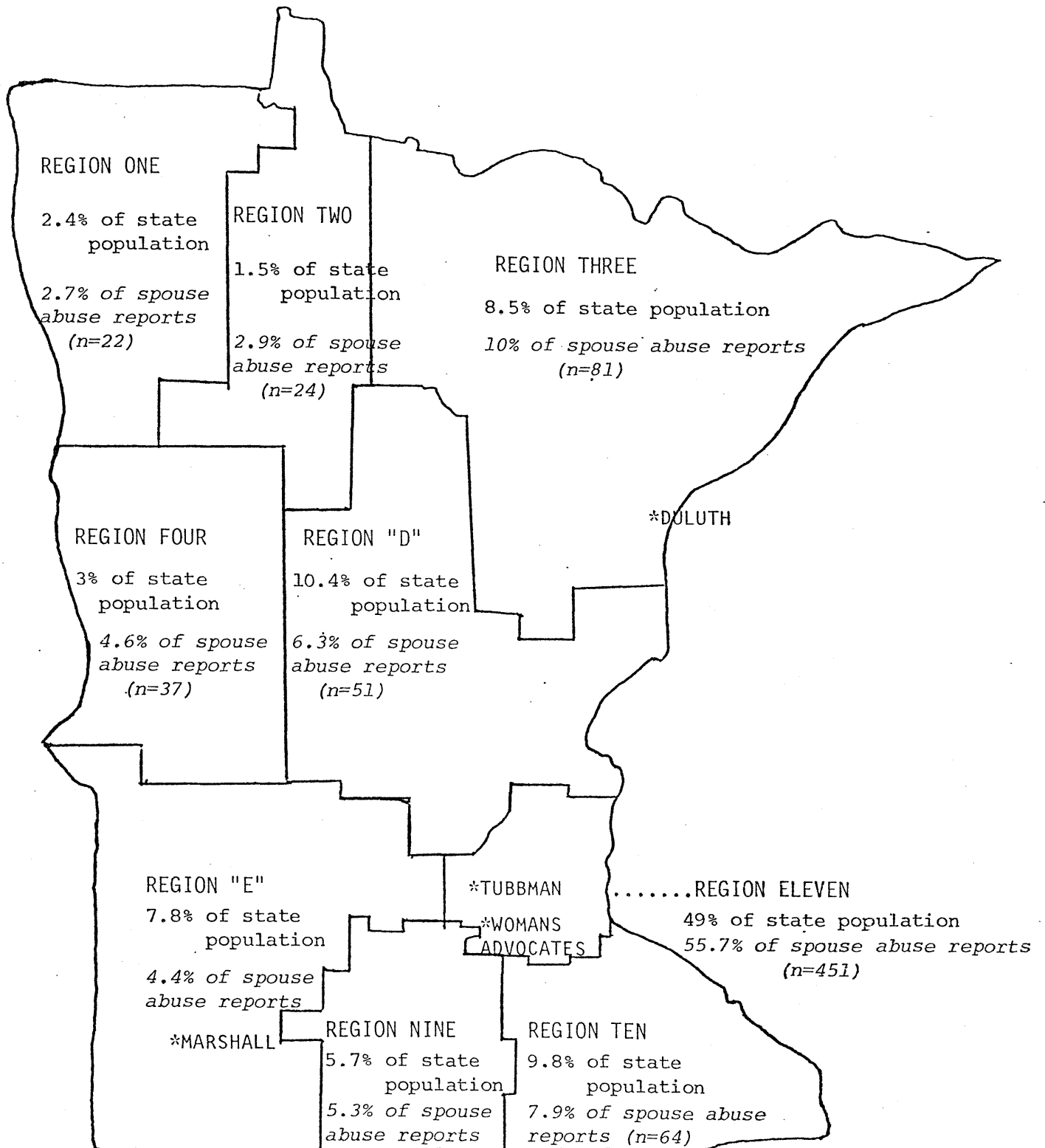


Figure 5. Incidence of reported spouse abuse in each criminal justice planning region for the first two months of mandated reporting in 1978. (814 total reports)

*Battered women shelters

SPOUSE ABUSE

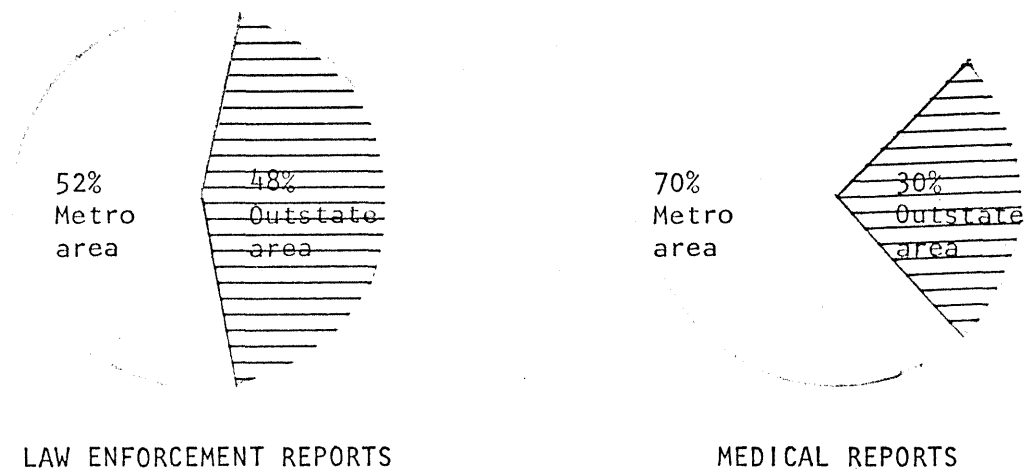
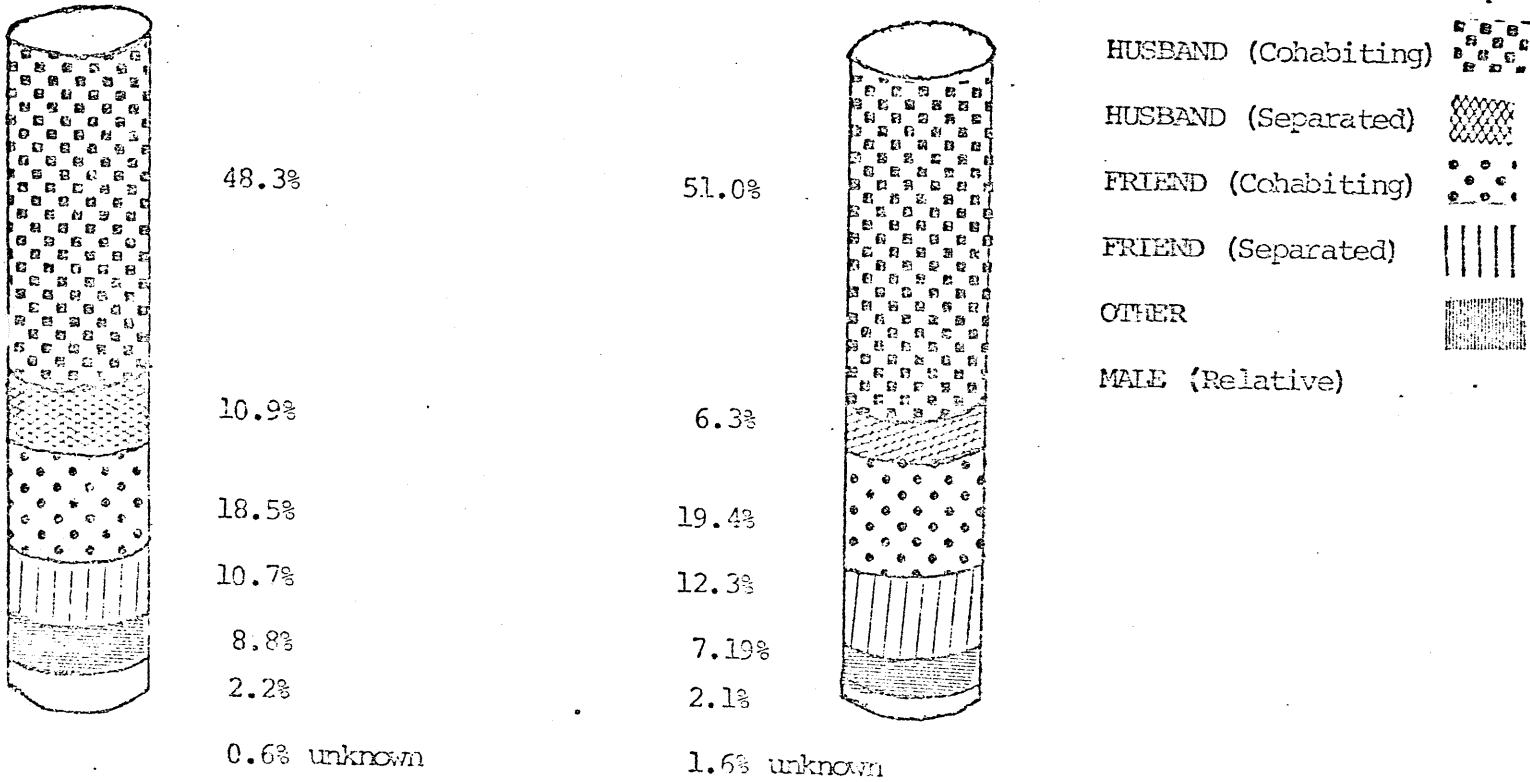


Figure 6. provides the geographic distribution of law enforcement reports and medical reports of spouse abuse.

Both law enforcement and medical reports indicate that most cases of spouse abuse are perpetrated by a husband who is cohabiting with the wife he abuses.



LAW ENFORCEMENT REPORTS

MEDICAL REPORTS

Figure 7. provides description of perpetrator of spouse abuse as reported by law enforcement and medical personnel.

Law enforcement agencies report 50% of the victims seen by them sustained visible injuries. Medical personnel indicate that at least 89% of victims seen by them have sustained injuries.

SPOUSE ABUSE INJURY SUSTAINED

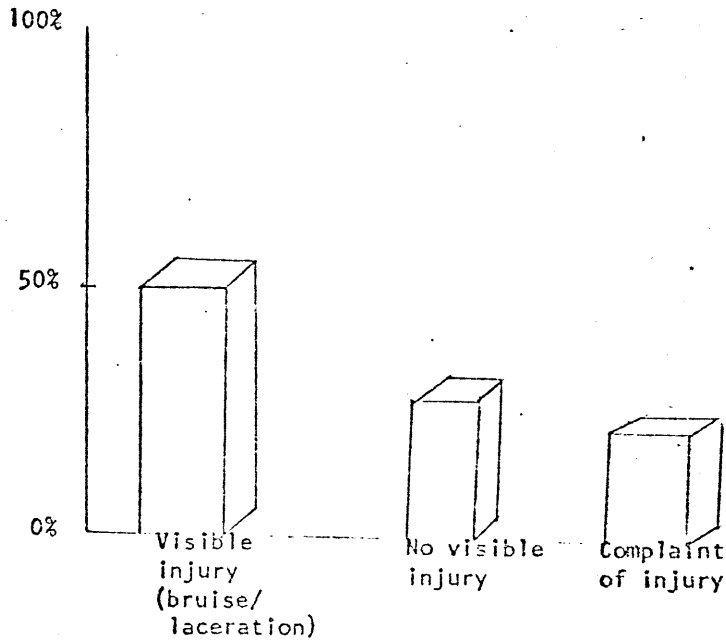


Figure Type of injuries sustained by victims of spouse abuse reported by law enforcement.

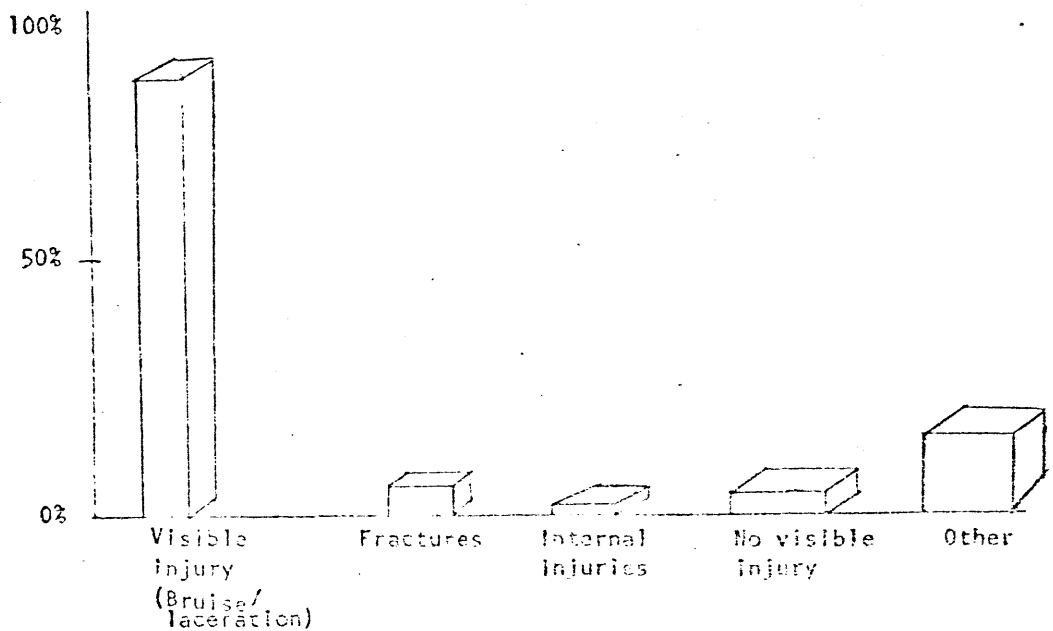


Figure 8. Type of injuries sustained by victims of spouse abuse reported by medical personnel.

III. CULTURAL ASPECTS OF FAMILY VIOLENCE

A. Definitions

- . Myths surrounding family violence have often portrayed the violence in the family as a problem of particular income groups or cultural communities. Research shows that family violence occurs regardless of income, ethnic or cultural background.
- . Despite the fact that such factors do appear to be substantiated by statistics, most practitioners and researchers agree that low income groups or specific cultural communities are over-represented in the statistics. The question is not whether family violence is more predominant in particular sectors of society, but why these groups show up in disproportionate numbers in the statistics.
- . General cultural assumptions are not necessarily operable within the confines of a particular subculture. Thus in evaluating the impact of family violence, it is essential to account for how people determine, in reference to their experiences, interests and theories of human behavior, whether a certain line of behavior is or is not acceptable.

B. Problem Statements

- . There is inadequate information or research on family violence as it occurs or affects particular subcultures.
- . Various cultural communities express concern over the fact of their over-representation in the statistical data. Many fear this over-representation serves to buttress existing social prejudices.
- . Intervention in family violence within cultural communities is often sporadic. This is partly due to practitioner biases and the subculture's perception of social prejudices.
- . Problems arise in the application of intervention or treatment within particular subcultures. Often the cultural community would prefer that intervention and treatment take place from within the community. The validity of this wish must be kept in mind in the establishment of intervention or treatment programs.
- . Research needs to be done on why particular income groups and/or subcultures come into contact with the criminal justice system more frequently. Possible reasons include:
 - such sectors tend to be suspected first
 - a larger proportion of these groups tend to be already dependent upon the welfare system. Therefore, they tend to be looked at first
 - often tend to be excluded from society at large

IV. ANALYSIS OF FAMILY VIOLENCE BY CRIMINAL JUSTICE SUBSYSTEM

A. Definitions

Although family violence issues are being addressed by the various subsystems in a number of ways, no comprehensive plan incorporating all of the disciplines affected by family violence exists. Frequently policies of one agency circumvent or contradict the policies or practices of another. It is not uncommon, for example, for the county attorney's office in a particular county to have a policy which advocates the criminal prosecution of incestuous parents. Yet the social services department in the same county may advocate diversion. A description of each subsystem role in dealing with family violence and some of the problems in each is given below.

B. Police

1. Functions

- a. Reports of family violence are made either to the police or welfare. The police role is that of intervention agents: conducting investigations, sometimes initiating criminal proceedings, and/or removing victim or offender from the home. In many cases, the police are also the initial diversionary agents, especially in domestic quarrels.
- b. New approaches are being developed to better equip the police to deal with family violence. These include training to sensitize the police to the victims' and offenders' points of view, the development of better working relationships with welfare, and special units such as the Minneapolis Family Violence Unit. The Family Violence Unit is a program designed to handle all complaints traditionally related to family problems, that require criminal investigation.

2. Problem Statements

- . Police are reluctant to intervene because:
 - domestic calls are highly dangerous for police and others
 - lack of training in how to deal with cases
 - reluctant to intervene in spouse abuse because of its repetitive nature, the officer cannot see that he has made a difference.
- . Some police agencies refuse to assist in domestic violence or refuse to transport victim to shelter facilities.
- . Some police agencies do not participate in reporting
- . Officers receive no feedback on cases that are reported
- . Under-utilization of police investigative and interviewing skills by the local Social Services Agency and prosecuting attorney.
- . Rules of evidence hinder prosecution. There is no allowance for the difficulty in getting a child's testimony.

C. Prosecution

1. Function

- a. The role of the prosecutor varies from community to community. Some are very proactive in dealing with child abuse, incest, and spouse battering through specialized diversion programs. Others are part-time and cannot handle the cases. Still others are very political and prosecute only those cases where they feel they can get a conviction.
- b. Some of the different approaches to the problem of family violence are:
 - . Citizen's Dispute Settlement Project - a pre-prosecution diversion mediation project. As it works in spouse abuse, the couple contract terms for ending the abuse and often includes treatment. If the offender breaks the contract, then criminal proceedings are begun. This is particularly effective in enforcing treatment for the offender.
 - . Case evaluation teams - inter-disciplinary teams in which the staff is provided by the county attorney's office.
 - . Resource referral programs - usually when prosecution is not viable the county attorney's office may provide referrals to community resources and services for both victim and offender.

2. Problem Statements.

a. Functional problems

- . Prosecution often must rely on evidence gathered by welfare workers untrained in the evidentiary process
- . County attorneys and city attorneys out-state are often part-time
- . Many county attorney offices do not have specialized programs that are attuned to family problems
 - e.g., horizontal representation means a victim may get a different assistant county attorney depending upon which court the case goes to and how far along they are in the system (i.e., pre-trial hearing, adjudication, etc.)

b. Attitudinal problems

- . lack of sensitivity to family violence
- . unwillingness to assist if they can't prosecute
- . unwillingness to divert cases which are easy to prosecute

D. Courts

1. Function

- a. Courts' problems in dealing with child abuse, incest and spousal abuse are in part related to the fragmentation of responsibilities and services both across subsystems and internally. The court's responsibility is frequently unclear. In some counties, only the cases which cannot be diverted go to court. In other counties, all cases go to court. The court determines what action must be taken to remedy the situation, be it treatment, jail, or removal of victim or offender.
- b. Specialized court services responsive to family violence:
 - . Unified Family Court Feasibility Study being conducted by Judicial Planning Council to look into unified family courts in all counties - a court to deal with all family problems.
 - . Referee or mediation projects
 - . Court referral services - almost all courts have referral services similar to the county attorney's offices - usually victim-oriented

2. Problem Statements

a. Functional

- . court system not conducive to dealing with children
- . a child must be found competent to testify in court if under 10 years old
- . accused's right to confront accuser raises problems with a reporter having to be identified to the family, i.e., teachers, and with the child facing its parent
- . in all family violence problems, the longer the court waits, the harder it is to prosecute. The evidence is transient.
- . The court system is not conducive to dealing with the family structure, e.g., criminal court won't deal with related problems. If charged with child abuse, the court won't deal with additional problems such as alcoholism, often will deal with what it has to deal with.
 - various members of the same family may be dealt with in various courts
- . when a child abuse case is handled in juvenile court, the child is adjudicated instead of the offender. If the case goes to criminal court, the court may not be prepared to deal with the victim. The guardian ad litem may not adequately protect the child's rights. Many judges will bring parents in on dependency petition rather than abuse/neglect charges, effect unknown.

b. Attitudinal

- . many judges refuse to deal with incest
- . many judges are reluctant to terminate parental rights
- . more men are prosecuted for child abuse than women, even though there are more female offenders
- . reluctance to become involved in spouse abuse cases
- . general inconsistency in dealing with family violence. The judiciary lacks policies to guide them in making decisions on cases.
- . the judiciary is hindered in deciding on cases of family violence by a lack of alternatives available to the offender

c. Training implications/needs

- . some judges lack sensitivity to the problems of the family and the issues of family violence
- . some judges and court services must receive training as to what to do with the offender
- . some judges must be trained to use local resources

E. Corrections/Treatment

1. Functions

- a. There are a number of disciplines and services involved in corrections and treatment. These include:
- Criminal Justice: i.e., Department of Corrections. Administering the Prisons.
 - Social Services: Sometimes work with D.O.C. in residential corrections. Also involved in victim-oriented treatment facilities.
 - Private Sector-Professional: Primarily involved in therapy, support groups, advocacy and residential treatment centers for both victim and offender.
 - Private Sector-Volunteer: Mostly support groups for offending parents/spouses. Also work with professionals in running emergency shelter facilities.
- b. The current trends in treatment dictate treatment for all members of the violent family, including related problems such as chemical dependency or delinquency.

2. Problem Statements

a. Functional

- . Treatment models are available that treat the whole family, but they are slow to be implemented.
- . Impracticality of comprehensive treatment programs outstate
- . not enough treatment available in the Metro Area or outstate
- . currently treatment services are fragmented. Each program administers to a different problem arising from the family dysfunction, without treating family as a whole.
- . treatment is expensive, and there is no help for the middle income family.
- . if the offender is in custody, there is no single agency mandated to pay for treatment. Neither D.P.W. or D.O.C. will assume the costs.
- . mandated treatment is often based on time not on recovery. Some offenders need more treatment than others.
- . not enough treatment alternatives, e.g., residential, out-patient, victim, offender, other family members
- . lack of evaluation of outcome of existing treatment programs
- . Emergency shelter care for abused children sometimes results in child's placement in lock-up psychiatric wards or with status offenders. Not geared toward victim's crisis condition.

b. Attitudinal

- . Therapist's orientation of treating either victim or offender in some programs does not allow for comprehensive approach.

F. Social Services

1. Functions

- a. Social services' responsibility is to provide services to families, give referrals to community resources, make the determination on child abuse and dependency cases. Also does some investigation into reports received on child abuse, i.e., through Child Protection Services.
- b. The D.P.W. is presently looking into the possibility of a multi-disciplinary team approach to child abuse in every county in Minnesota.

2. Problem Statements

a. Functional

- . lack of communication with the criminal justice community at all levels from federal H.E.W. officials to local case workers.
- . confidentiality laws prevent sharing of information
- . some policies of welfare and social services promote high risk situations which may contribute to family violence
- . reporting agencies can't get in touch with the Department of Public Welfare after 4:30 and on weekends
- . some local county welfare agencies will not pay per diem for emergency shelters for battered women
- . county welfare agencies are authorized to pay for child abuse treatment but some choose not to
- . victims dependent upon welfare might not report spouse battering and child abuse because it may be self-incriminating
- . most counties do not have inter-disciplinary case evaluation

b. Attitudinal

- . frequently there are turf problems in handling cases of family violence
- . do not utilize the resources of police or courts enough
- . reluctance to remove children from home
- . philosophical problem when social services agency is responsible for criminal justice problem

c. Training implications/needs

- . caseworkers lack adequate training and frequently do not understand their responsibility
- . need inter-disciplinary training so each subsystem understands the procedures, resources and problems of the other.

G. Education

1. Functions

- a. responsible for reporting suspected cases of child abuse
- b. educators are becoming more sensitive to the problems of family violence. School programs are being developed to help both children and teachers become aware of the problems, i.e, Delusion Theatre Company - a program designed to illustrate acceptable modes of affection.
 - . educators are participating in the team approach to child abuse case evaluation
 - . educators are trying to receive training in order to recognize and understand abuse

2. Problem Statements

a. Functional

- . Teachers are reluctant to report abuse because they must continue to deal with the parents.
- . Teachers often fail to receive feedback on victims of child abuse.
- . Teachers are often not equipped to identify victims.

b. Attitudinal

- . general lack of understanding about the importance or extent of the problem

c. Training implications/needs

- . need training to recognize child abuse
- . need training on procedures to deal with it

H. Medicine

1. Functions

- a. Medical personnel must report suspected cases of physical and sexual abuse of children and spouse battering.
- b. Medical personnel are becoming more sensitive to the problems of child abuse and spouse battering. Emergency room personnel are beginning to receive training to assist them in identifying cases.

2. Problem Statements

a. Functional

- . private physicians and nurses often fail to receive feedback on victims of reported abuse
- . physicians express reluctance to report because of the time they must spend in court with disappointing results
- . many medical personnel lack training necessary to identify abuse cases
- . private hospitals often send child abuse cases to county hospitals because they do not want to deal with it or lack the resources to deal with it
- . model uniform medical protocols to handle cases of family violence exist but are not widely circulated or practiced

b. Attitudinal

- . general lack of understanding about the importance or extent of the problem

c. Training implications/needs

- . need training to recognize child abuse and spouse battering
- . need training on procedures to deal with it.

V. INSTITUTIONAL VIOLENCE

1. Policies and Practices of State Agencies

- A. There are a number of policies and practices of state agencies that affect the family, both through example and/or direct intervention.

Consequences of these policies and practices may include:

- the creation of high-risk families
- emotional abuse to individuals affected
- contribution to criminal behavior

B. Problem Statements

1. Children in Jails

- . In 1977 5,519 children were admitted to jails in Minnesota. Legislation effective August 1, 1978 will allow the jailing of any child over age 14 (whether or not he has committed a crime) to jails approved by D.O.C.
- . There is little information as to what effect a jail experience has on a child, but it is at best an unnecessary intrusion in a child's life.

2. Removal of Child from Home

- . Minnesota law does not provide specific guidelines for a court or welfare department involved in removing a child from his/her home (i.e., courts are directed to order a disposition that is in the child's best interests, and a welfare department only needs the parents' permission or a court order in order to remove the child from his home). When a court orders a child removed, usually the welfare department or court services has the responsibility of placing the child. This system leaves a wide margin of practitioner discretion.
- . There is also a lack of standards to be used in deciding when to return a child to the legal parents.
- . Although new legislation addresses the problem of length of time children spend in foster care, guidelines are needed to fully implement this to the child's advantage.

3. Quality of Out-of-Home Placements

- . Little is known about the harms or benefits of various placements. Research is needed to aid policymakers and practitioners who must develop specific criteria for choosing placement and ensuring quality care.
- . There is inadequate monitoring of foster homes, group homes and other child caring institutions.

2. Use of Physical Violence by Agents of the State

A.1. Physical violence to children and adults by agents of the state may affect both individuals and the family.

This includes persons in state custodial facilities, i.e., adults in facilities for the physically or mentally disabled, and correctional facilities; and children in schools, institutions, group homes, foster homes, jails, detention facilities and similar situations where the state is parent to the child.

A.2. Some of the consequences of physical violence by state agents may be:

- harm to the individual
- interference with treatment
- sets an example to both parents and children of the acceptability of physical violence as a problem solving technique
- not conducive to criminal justice rehabilitative efforts

A.3. Minnesota Statute 609.06 sets forth those circumstances under which reasonable force may be used. This statute is applicable to both state agents and private citizens. (See attached) This is the only statute related to corporal punishment of children.

609.06 AUTHORIZED USE OF FORCE. Reasonable force may be used upon or toward the person of another without his consent when the following circumstances exist or the actor reasonably believes them to exist:

- (1) When used by a public officer or one assisting him under his direction:
 - (a) In effecting a lawful arrest; or
 - (b) In the execution of legal process; or
 - (c) In enforcing an order of the court; or
 - (d) In executing any other duty imposed upon him by law; or
- (2) When used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering him to an officer competent to receive him into custody; or
- (3) When used by any person in resisting or aiding another to resist an offense against the person; or
- (4) When used by any person in lawful possession of real or personal property, or by another assisting him, in resisting a trespass upon or other unlawful interference with such property; or
- (5) When used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or
- (6) When used by a parent, guardian, teacher or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or
- (7) When used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to his personal safety; or
- (8) When used to restrain a mentally ill or mentally defective person from injuring himself or another or when used by one with authority to do so to compel compliance with reasonable requirements for his control, conduct or treatment; or
- (9) When used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for his control, conduct or treatment.

[1983 c 733 art 1 s 039.06]

B. Problem Statements

1. Regarding Minnesota Statute 609.06

- . The statute is subject to varying interpretations and provides no guidance to practitioner or parent.
- . In effect, condones corporal punishment.
- . Interpretation and implementation of the statute is inconsistent throughout the state.
- . Provides agents of the state with a great deal of discretion in the use of physical force against citizens in public and private facilities.
- . Guidelines are necessary to provide limits for practitioners and protection for clients.

2. State Department Regulations

- . State agencies vary in their policies regarding corporal punishment.
- . D.P.W. regulations regarding corporal punishment do **not** adequately insure against its occurrence, ie, the types of physical punishment not allowed are only clearly defined in Rule 1 for foster homes. Both the regulations applying to group homes or child-caring institutions state that corporal punishment is not allowed, but neither define it specifically.
- . There are no regulations at the state level related to the corporal punishment of children. In schools, policy is formulated at the individual school level. Some schools have a policy requiring parental permission but it is not clear what sanctions exist for violation of such a policy.
- . There is no single agency responsible for reviewing state agency policies regarding physical violence.
- . The use of peer culture pressure in correctional and treatment facilities must be further investigated to determine whether it contributes to the use of physical force.

VI. MINNESOTA STATUTES REGARDING FAMILY VIOLENCE

The staff had originally planned to present a summary of, and the issues related to, the Minnesota statutes regarding family violence. This was to be accomplished by two methods. First, these statutes were to be compared to model legislation, other state statutes, relevant case law, and national standards on family violence. And second, a review was to be made of the ideas of the practitioners in Minnesota and of the staff's independent judgments on these statutory provisions.

However, the staff has found the statutes and the material relevant to raise the issues surrounding these statutes was too voluminous and complex to attack in the limited time and with the limited staff available. It suffices to say at this point that a preliminary examination, which itself took considerable time, has revealed that the issues regarding Minnesota's family violence statutes are numerous and sometimes very complicated. They run the gamut from subtle definitional limitations to conflicting statutes.

To complete an effective, thorough, and efficient research effort on these issues will require a minimum of two persons working full time for six weeks. Because of the importance of the subject matter, the staff recommends that such an effort be undertaken as quickly as possible.

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* Those readings which are especially recommended.

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Family violence

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