

SURVIVOR'S HANDBOOK FOR Battered Women



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Note: You don't have to read all of this at once!
Go to the section that you are most interested in
—each part can stand alone.

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Published by:
Marquette Women's Center
Harbor House

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Revised 2001
DVPSH/Safe House
and Susan McGee



SECTION I

STATEMENT OF PURPOSE

This is a handbook for battered women—to help them survive. Its purpose is to define abuse, to give support, encouragement, and information to survivors, and to provide information about legal rights and options.

It is not intended to dispense legal advice.

ACKNOWLEDGMENTS

Grateful thanks to all those people in the criminal justice system who contributed to the SAFE House's knowledge and information.

This manual was written by Susan McGee, Executive Director of the SAFE House. Contributions for this revision came from Lore Ann Rogers, Hon. Elizabeth Pollard Hines, Julie Youdovin, Erin House, and Jamie Steele.

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and Susan G.S. McGee. Revised 1999. Revised 2001.

The handbook was printed by one of the following grants/funders:
This project Survivor s Handbook was supported by Crime Victim Assistance Grant Award CVA # 20315-5V00 awarded to the Women s Center, Inc. by the Michigan Crime Victim Services Commission, Michigan Departemnt of Community Health. The grant award of \$162,037.00, comes from the Federal Crime Victims Fund, established by the Victims of Crime Act of 1984. The Women s Center, Inc. provides the required match by the use of volunteers (4051 volunteer hours valued at \$10) or \$40509.00.



SECTION II

DEFINITION OF TERMS

Survivor or victim both mean the person in the relationship who is being hit, beaten, abused, raped and controlled. The legal system uses the word “victim.” In this booklet, we use the word survivor. We use the term survivor because it emphasizes that battered women are strong, courageous people who have survived terrible attacks.

Battered woman is any woman who has been assaulted or abused. Lesbians and men (gay and straight) can also be victimized by their partners. Partner means someone you’re dating, used to date, or with whom you have or had a romantic or sexual relationship. It doesn’t mean just married people. We use the term “battered woman” because the vast majority of people who are battered are women.

The Women’s Center/Harbor House offers services to **any person** who is victimized in a relationship. This includes lesbians and men (both heterosexual and gay). If you need help, call us!

All of the laws discussed in this booklet also protect men battered by women, and most of them also protect lesbians and gay men.

Domestic violence, battering, abuse, and domestic abuse mean the same thing in this booklet. They all describe a pattern of coercive control which one person exercises over another. Abusers use physical and sexual violence, threats, money, and emotional and psychological abuse to control their partners and get their way. **Spouse abuse** means domestic violence between people who are married. **Wife beating** also means domestic violence. We don’t use spouse abuse or wife beating because people who are living together, having sex, or dating can be in violent relationships, not just married people.

Domestic assault refers to a type of abuse that is a crime. Something can be abusive, but not criminal. For instance, breaking dishes that you both own, or calling you a whore, are abusive, but are not crimes under our law.

Assailant and batterer both mean the same thing in this booklet. It is the person in the relationship who is hitting, controlling and abusing his partner. We use the pronoun “he” or “him” when referring to assailants in this booklet, but as we said *before*, there are times when the assailant is a “she.”

Partner. In this booklet, the word partner means someone in an intimate relationship with another person. A partner could be a wife, husband, lover, boyfriend, girlfriend or date. A **domestic partner** is a person with whom you have registered a domestic partnership. Lesbians and gay men may register their partnership, and a few mixed gender couples do too.

Advocate. In this booklet, an advocate is a trained domestic violence counselor. She will provide you with support and information about your rights and options. Any communication with her is private and confidential. *She will NOT tell your assailant anything you say.* She will not tell you what to do nor will she judge or evaluate you, but will help you make your own decisions, and figure out how to best get what you need, deserve and want. She will *believe in you, encourage you and fight for you.*

Battering is a pattern of coercive control that one person exercises over another.

We use the term survivor because it underlines that battered women are strong, courageous people who have survived terrible attacks.



SECTION III

GENERAL STATEMENT

Beating another person is a crime. It makes no difference if the person who beats you is a friend, a relative, your boyfriend, your lover, or your husband.

Domestic assault is against the law. Hitting, choking, shoving, slapping, biting, burning, or kicking someone is a crime.

Forcing someone to have sex is against the law - even if the person who forces you to have sex is your husband. The person

who hits you may tell you that it's your fault and that you made him do it. He may tell you he has a right to hit you because . . . you're crazy, drunk, a slut, a bad mother, a nag, etc. This is wrong.

Physical violence is **unacceptable** in intimate relationships. and, it's a **crime**.

Self-defense is not a crime. If you push your partner to get away while he's hitting you, or if you scratch his face while he's choking you, that's self defense. Your batterer may tell you that you're just as bad because you tried to defend yourself. That's wrong.

Your batterer wants you to believe that you'll never make it on your own and that you'll never get away from him. Contrary to the newspapers and television, battered women leave their boyfriends and husbands all the time. It can be a long, hard struggle. Your batterer may be most dangerous and violent after you've left—when he's trying to get you back. Nonetheless, thousands of women who were once beaten are now safe.

Call Our 24 Hour Crisis Line
226-6611 Marquette County
1-800-455-6611 Alger County

You can always call back - even if you have called before. You don't have to be interested in shelter; you don't have to have made the decision to leave. You can call just to talk, or to get information. **You don't have to give your name when you call.**



SECTION IV

WARNING SIGNS OF ABUSERS

Many assailants come across as charming and pleasant people at the beginning of *the relationship*. They often continue to display these qualities in public while being abusive in private.

The following are warning signs of abusers BUT there is no sure-fire way to identify a batterer *ahead of time*.

- Is he very, very jealous?
- Does he want to know where you are every single minute?
- Does he drive away your friends and family?
- Does he have extreme highs and lows?
- Is he cruel to animals?
- Has he hit a former partner? Does he tell you in detail how terrible every former girlfriend was? Does he claim that former partners lied about him and put him in jail?
- Does he believe you belong to him? Does he tell you it's you and he against the world?
- When he gets angry, are you afraid of him?
- Did he grow up in a violent family?
- Does he say he can't "help" losing his temper?
- Does he say it's your fault when he is in a rage?
- Does he have contempt for women?
- Does he act like two totally different people? (Dr. Jekyll and Mr. Hyde?)
- Does he tell you he has to restrain you for your own good?



SECTION V

WHAT IS ABUSE?

Abuse is a pattern. It's not just one hit. It's one person scaring the other person into doing what he wants her to do. It's about one person controlling the other. Abuse can be physical, emotional, and/or sexual. It usually is a whole lot of different methods of control (ways that one person makes the other person do what he wants). The Power and Control Wheel (see Section

VI) shows *some of* the different tactics (or ways) that one person controls another. It was made up by a group of women who had been abused.

Many women don't think of themselves as being "battered." They don't see the things their partner does to them as abusive, and they don't see how they are part of a pattern. Assaultants blame everyone and everything but themselves for the abuse. They try to convince their partners that they can't stop or that they have good reasons or excuses for the abuse.

A woman may be forced by her boyfriend to have sex, but she doesn't see it as rape.

Think about some of the following questions, and see if you may be abused. (You don't have to answer "yes" to all of them to have been abused.)

- Have you been hit? slapped? pushed?
- Has your partner pulled your hair out? Restrained you? Prevented you from leaving?
- Have you been grabbed? shaken? bit?
- Have you been choked?
- Has your partner used an object to hit you? Iron? Telephone? Belt?
- Have you had bruises from being hit, held or squeezed?
- Have you had a black eye, cut lip, or broken tooth from being attacked?
- Has your partner threatened you with a weapon?
- Has your partner used a weapon against you? Gun? Knife?
- Have you had to see a doctor because of an injury?
- Has he threatened to hurt the children if you don't do what he says?
- Has he threatened to kill you? Your children? Your family? Your friends? Your pets?
- Has he demanded sex to "make up" after an attack?
- Has he forced you to have sex? Oral sex? Anal sex?
- Has he forced you to have sex with others?
- Has he forced you to have sex in front of the children?
- Has he put objects into you against your will?
- Has he forced you to have sex with an animal?
- Has he stopped you from taking classes?
- Has he stopped you from getting a job?
- Has he stopped you from going to work, or shown up at work and abused or threatened you there?
- Does he keep/take your paycheck and give you a little bit back, or make you ask for money you need?
- Does he keep all the money under his control?
- Does he not let you go places - house of worship, to visit friends or family?
- Does he not let you use the car? Does he take your keys or disable your car? Does he put all the vehicles in his name?
- Does he not pay the bills?
- Does he fight with your friends and family, call them names and in general make it hard for them to see you?
- Does he make you tell him where you've been every minute?
- Does he make you write down what you've done all day?

- Does he call frequently to check up on you when you're not with him?
- Does he call you names? Does he tell you that you are ugly, fat, stupid, a bitch, a slut or a whore?
- Does he say that no one would ever want you if you left him?
- Does he tell you you're not a real woman?
- Does he accuse you of having sex with every man you meet, or smile at, or talk to?
- Does he repeatedly, and wrongfully, accuse you of being unfaithful?
- Do you change what you want to do or plan to do because you're scared of his temper?
- Do you feel like you're walking on eggshells?
- Are you afraid that if you left him he would kill you?
- Are you afraid if you left him, he would kill himself?

*A woman may be forced by her
boyfriend to have sex,
but she doesn't see it as rape.*

*A woman is physically assaulted
within her home every 15 seconds
in the United States.*

- Has he hurt or killed your pets?
- Has he made you do things that you're ashamed of?
- Has he made you commit a crime?
- Does he encourage you to drink too much?
- Does he make or force you to use drugs?
- Has he prevented you from using the toilet?
- Woke you up every few minutes or every half an hour? Withheld food from you for long periods of time?
- If you are sick, or have a chronic illness or developmental disability, does he withhold medication from you?
- If you are addicted to alcohol or other drugs, does he buy you liquor or drugs? Does he stop you from going to meetings?
- After he has hit you, does he act sweet and loving? Does he say he's sorry, buy you gifts, cry, and say he'll never do it again?
- Are you afraid of him? Are you afraid of what he might do if you "crossed" him?

If you are not sure you're being abused, call us and let us help figure it out with you.

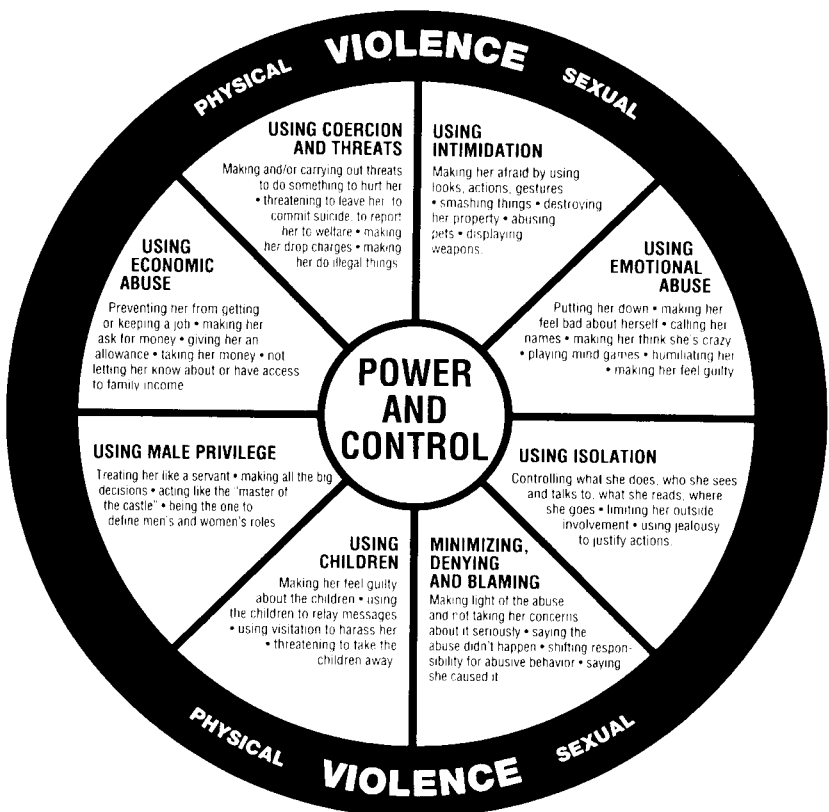


SECTION VI

POWER AND CONTROL WHEEL

This chart is a conceptual way of looking at the primary tactics and behaviors that individual abusers use to get and maintain control in their relationships. **Battering is intentional. It's used to gain power and control over another person.** Physical abuse is only one part of a whole lot of methods an abuser uses against his partner. Battering is **never one assault**. This chart uses a wheel to show the relationship of physical abuse to other forms of abuse. Each spoke represents a tactic used to control or gain power, which is the hub of the wheel. The rim that surrounds and supports the spokes is physical abuse. It holds the system together and gives it strength.

The wheel was designed by a group of battered women and their advocates including Ellen Pence, Susan Schechter, Barbara Hart, Joe Morse, Michael Paymar and Miguel Gil. Many thanks to the Duluth Abuse Intervention Project in Minnesota for allowing its free use.





SECTION VII

QUESTIONS SURVIVORS ASK

Am I really a battered woman?

A lot of women who have been assaulted don't want to think of themselves as battered. Our society has taught us to believe that battered women have low self-esteem, are weak, or masochistic. No one wants to think of herself in that way. In fact, battered women come from all races, are rich and poor and everything in between, have lots of education or none, and have no special personality characteristics.

The only thing that all battered women have in common is that their partner has caused them to live in fear and has tried to take control of their lives.

If you identify yourself as a battered woman, you might have to accept that you can't change your partner, and that he has a serious problem with violence. Many women don't want to think of their husbands or boyfriends as batterers.

If you can't figure out whether you have been battered, call our crisis line, and talk to one of our counselor/advocates.

Is it just the drinking?

No. If he stopped drinking, he wouldn't stop being abusive.

A lot of times assailants will drink so that they can have an excuse for assaulting their partners. Many batterers blame their drinking or drug use for their violence, and claim they cannot help themselves. That is not true. They have the choice not to batter. They also have the choice to seek help for their use of alcohol or other drugs.

A lot of batterers claim that they can't help what they do when they are drunk or high—that they are out of control and therefore not responsible for what they do. In fact, a lot of people drink, but only some assault their partners.

Batterers' judgement and physical ability may be harmed by their drinking or drug use. If he is trying to strangle you into unconsciousness, and he is drinking, he might misjudge and kill you. If he pushes you, he might miss, and push you down the stairs. But people will not commit acts that they feel are totally wrong even when drinking. For more information, see Section XIV.

Could I be killed?

One third of all female homicide victims are killed by their husband or an intimate partner. If you are battered, you are in danger of being killed. Most homicides occur after women have left or when assailants realize deep down that they are leaving for good.

Assessing Lethality

The following are signs or indicators that your partner might kill you. There is **no guarantee** that if he does not fit this picture, he will not kill you. If all the answers to these questions are no, that does not mean you are necessarily safe from death.

- Has he threatened to kill you, your children, or a member of your family?
- Has he threatened or tried to kill himself? Beware! Batterers often kill their partners BEFORE killing themselves?
- Does he have fantasies about killing you, or the children? The more details, the more danger.
- Does he own weapons? Has he ever used them or threatened to use them in the past?
- Does he believe he owns you and that you have no right to life without him?
- Does he see you as the center of the universe? Can he not think about life without you?
- Has he been seriously, acutely depressed?
- Does he talk about how you have stolen his children?
- Can he find you? Does he know where you are? (If he can't find you, he can't kill you.)
- If you have left, has he tracked your every move for days or weeks?
- Has he taken you hostage?
- Is there a lot of sexual violence, rape and sexual humiliation in the relationship?
- Have you told him you're leaving? Does he think you're leaving? Have divorce papers been filed? Has he just been served with a personal protection order?
(This is a time of great danger—you need to take special care.)
- Has he been drinking or using drugs heavily? If so, you are in greater danger.
- Has he killed or mutilated a pet?
- Has his behavior changed a lot recently? Is he doing things that he wouldn't ever have done in the past? Is he radically changing and escalating his patterns of abuse?

The concept of lethality assessment was developed by survivor Barbara Hart, and modified by many.

Can I change him? Can I help him?

No. He has to make the decision to change. You cannot save him.

The only thing you can do for him is to give him a referral to assailants' counseling and hope he goes.

He says he's sorry and that he'll never do it again. Can I trust that?

No. Many survivors experience a "honeymoon" or "respite" period after an assault. Many assailants say they are sorry after an attack. Often they will also cry, plead, apologize, and send gifts.

Some will enter counseling once or twice, and then drop out. He might share some of his grief and pain with you. He'll seem vulnerable and open to you. He will remind you of the man you fell in love with. However, eventually, you will be assaulted again. (In some cases, assailants decide that they can control their partners without physical assaults, and escalate the psychological controls—controlling money, controlling access to children, convincing their partners that

they will lose their children if they leave. They don't have to hit any more, because their victims know that they are capable of brutality and violence).

Some survivors say that the apologies and gifts are just another method of control. He's afraid you will leave. Being abusive will strengthen your resolution to go, so he tries being sweet and loving instead.

Violence never goes away by itself. It usually increases in frequency and intensity over time.

Battering is a behavior that is learned. It's learned in families, and it's learned in our culture. It is developed and practiced over time. It takes specialized work by counselors trained to deal with this problem for batterers to have a chance to change. (For more information, see Section XIII)

Will he go to prison?

Usually he will not. In most cases, domestic assailants are charged with misdemeanor assault and battery. If convicted, the maximum sentence for a first offense in Michigan is 93 days in jail. (The second and third conviction might mean more time in jail). More often, they are put on probation, and often they are sentenced to batterers' counseling. If your assailant is charged with a felony, there is a possibility that he might go to prison.

It is not your fault if your partner is convicted of a crime and therefore not your fault **if he goes to prison or jail**. He committed the crime; it's his responsibility.

What about couples counseling?

Assailants often say that their partners are the crazy ones and need counseling. Survivors may think that they can save their marriage through couples counseling. They hope that contact with a therapist will help their partner realize he's violent, and that he'll stop abusing them.

When there is violence in a relationship, couples (or marital) counseling does not work. Couples' counseling assumes that the primary problem is "the relationship" or "communication" and that both people are responsible for making the changes necessary to make the relationship better.

This will not end the violence - **it increases the danger**. No matter what issues or problems there may be in a relationship, battering is one individual's problem - the one who is using the violence.

Usually, the survivor is afraid to say what is really going on because the assailant may punish her for doing so. The assailant usually uses the therapy as another means of keeping control over her.

Isn't divorce against God's Law?

If divorce is forbidden in your religion, you might want to consider an order for separate maintenance. Consult your religious leader for your house of worship's position about a marriage with violence in it. Often, the church believes that if one person is violent and abusive, then they have broken the marriage vow, and that God does not want you to be hit or hurt.

A lot of battered women have strong spiritual beliefs and/or are very connected to their religious community. Some religious communities are very supportive of a woman's safety. Others are not. Sometimes they may counsel the woman to stay and try to work it out, or even actively support the abuser (usually because they don't understand about domestic violence). Try to find someone connected with your faith who is knowledgeable about violence against women.

Most women of faith make decisions in the context of their religious beliefs. Women won't decide to leave unless they believe it's the moral thing to do.

{A wonderful resource for women of faith is the National Center for the Prevention of Sexual and Domestic Violence, 936 North 34th Street, Suite 200, Seattle, WA 98103, USA; Phone —206-634-1903; fax—206-634-0115; CPSDV@cpsdv.org; Website—<http://www.cpsdv.org>. They publish a great booklet called "Keeping the Faith." They have recently added sections for Jewish women, Muslim women, Black women, and Asian women. Muslim women might look at Karamah, the Muslim Women's Human Rights Organization at <http://www.karamah.org>)

Why does he hit me?

People batter in order to control their partners. He may say it's because he was hit as a child. He may blame losing his job, or being discriminated against. He may say he's been treated badly in other relationships, or that what you do forces him to hit. Some women want to believe these "reasons" because they think that by changing what **they** do, they will be able to stop the violence. Unfortunately, batterers make a choice to assault because they want their partners to do as they say. If you change your behavior, he will still hit you.

I feel like he makes up rules and punishes me for breaking them.

Am I crazy?

No. Batterers do indeed make rules in relationships and then punish their partners for breaking them. Usual rules are:

- You cannot leave the relationship unless I am through with you.
- You may not tell anyone about my violence or coercive controls.
- I am entitled to your obedience, service, affection, loyalty, fidelity and undivided attention. You must prove to me that you are on my side.
- I get to decide which of the other rules are critical.

These rules were first articulated by survivor Barbara Hart who has given permission for their reprint here.

Am I codependent? If I get therapy, will he change?

If you get therapy, it will not change his behavior.

Some women have been helped by thinking of themselves as “codependent.” They have learned through this label that they are valuable people, that they should take care of themselves, and that they cannot change or be responsible for other people. These things are true and very helpful.

However, other women have been told they are codependent and are somehow enabling or participating or colluding in his “sickness.” This is not true about battering.

What you do, or say, or think, whatever ways you may try to change yourself - these will not stop or reduce his violence. Only **he** can make the decision to change his behavior.

Counseling might help you decide what is best for you and your children, but it will not affect his behavior.

Is he mentally ill?

No. Many people believe that anybody who would beat and torture someone they claim to love is “crazy” and needs help.

Batterers may need help, but they are not mentally ill because they batter. Mental illness does not cause battering. Most people who are mentally ill are not physically violent.

What if I've hit him? Doesn't that make me just as bad?

No. Battered women try all kinds of methods to stop the violence. They may do as the assailant tells them, try to calm him down and give him what he wants. They will try to argue and reason or cry and plead.

Most battered women try using force to get the assailant to stop hitting them. The most common things that survivors do are—bite the assailant or scratch his face to stop him from choking her or twisting her arm; grab a knife and tell him to back off; or push him away to run out of the room. All of these acts are self-defense, and not criminal.

Sometimes assailants will call the police and claim that they are the real victims, and show the police their scratches or bites. Sometimes battered women are arrested incorrectly. If this has happened to you, tell the police the whole sequence of events. If you've been arrested incorrectly, Harbor House can help you set the record straight. **226-6611 Marquette County or 1-800-455-6611 Alger County.**

SECTION VIII

WHAT CAN I DO TO BE SAFE?

Call the police

Write down the emergency number for the police. It's usually 911. Call the operator if you don't know it. If you don't have a telephone, arrange a signal with neighbors so that they can call the police. When the police come, ask them to arrest your partner.



If you are scared to do that in front of your assailant, think about talking to one of the officers alone.

Get support from friends and family

Tell your family, friends and co-workers what has happened. Don't try to protect him. Ask for what you need.

Move out; move away

It's not fair. You should not have to leave your home because of his behavior. But sometimes the only way you will be safe is to leave. There are shelters throughout the country that can help you relocate. Harbor House can put you in touch with them.

Make a safety plan

Figure out what to do before or when the next attack happens (See below under Section XI—Page 34.)

Get a Personal Protection Order

(See the Legal Section—Section X)

Keep Your Own Records of the Abuse

Keep a journal or log of all incidents of physical violence, threats, harassing phone calls, unwanted contacts, missed visitation, etc. You may also want to include promises your assailant made about getting help or changing his behavior.

Take pictures of any bruises or injuries you have. Take pictures or videotapes of any damage done to your home or property. Make sure you write the date of the incident and a description of what it is on any pictures. If you are taking pictures of bruises on a specific part of your body, take two pictures. One a close up that shows the bruise, and one further away which shows your face and that part of the body. That way you can prove the bruise was made on you. When taking pictures of a hole in the wall, put something next to the hole to show how big it is.

Keep copies of any email he sent to you. Record or make copies of any messages on answering machines or voice mail. Write down the name, address, and phone number of any witnesses to his violence.

Get medical help

If you have been injured, go to the emergency room, or urgent care unit, or see your doctor.

Medical records may be important evidence in criminal or civil court cases. Medical records may also help you get a personal protection order. Give all the information you feel safe to give. Medical records are supposed to be confidential and are not supposed to be given out to anyone but you.

SPECIAL MEDICAL CONCERNS:

What seems like a minor injury could be a major one.

If your head gets hit and you lose consciousness, if you are more groggy an hour after an attack, if a headache lasts more than two weeks or if you have a seizure, be sure to see a doctor. These could be signs of brain injury or bleeding in the brain, or a closed head injury.

If you are pregnant, and he has beaten you in your abdomen or back, tell the doctor. Many batterers injure unborn children. If you've been beaten in the belly, if you start to feel faint, or you notice bruising on your back, or large bruises on your stomach, you could also have wounds to your internal organs which could be life threatening.

If he's limiting your access to medication, try to see a doctor and ask for free samples. Most pharmaceutical companies have policies to provide low cost or free drugs to folks who cannot afford them, so if you have a chronic condition and are worried that you won't be able to pay for meds, this might be an option.

If your insurance is in your husband's name, be careful that it is not billed for medical care (if you don't want him to know about it).



SECTION IX

GETTING HELP

Services of the Women's Center

What is Women's Center?

It's a private non-profit organization in Marquette and Alger Counties dedicated to ending domestic violence. We offer a lot of different services.

Crisis Line

We have a 24-hour crisis line. It is **226-6611 Marquette County** or **1-800-455-6611 in Alger County**. It's answered 365 days a year by trained counselors. If you just want to talk, if you need counseling, if you want information, or a referral, call us. You don't have to give your name if you don't want to. To get any of the services listed here, call that number.

Shelter

Our shelter is called **Harbor House** where battered women can come by themselves or with their children, and find physical safety.

At Harbor House, you will get the chance to meet and talk with other battered women, and share support. Your children (regardless of age or gender) are welcome to come with you. There are support and educational groups. You will be assigned a Counselor/Advocate who will help you get legal and financial help. There is always someone to talk to.

The survivors who reviewed this book asked us to emphasize that Harbor House is a wonderful place. They were concerned that survivors reading this booklet would be frightened of the unknown, or scared to come to Harbor House. They wanted you to know that you would be welcome and safe.

Pets

Assailants often threaten pets or hurt them. If you are afraid to leave because your pet may be injured, please call us, we can help. We have a special program for sheltering and rescuing pets.

On-Call Teams

If you live in Marquette or Alger County and your assailant has been arrested, you should get a visit from the Women's Center On-Call Teams. If you are seen in an area hospital, the on-call teams may also come to see you.

One or two women will come to your house. They have been contacted by the police, but are not police officers. They are trained counselors, and have come to give you information and assistance. You do not have to talk to them if you don't want to.

They will talk with you about the assault, your relationship, how you are feeling and will help you sort out your options. They will tell you about our services. They will give you information about the legal system, and what to expect. They will offer you shelter, transportation to medical help and give you support.

If you've been contacted by the On-Call Teams, someone from our program will call you after that to see how you are doing, and if you need anything else.

Legal Advocacy and Accompaniment

If you want to make a police report, or have to go to court, decide to file for divorce, need to get custody of your children, need a personal protection order, have questions about the court process, our staff is available to assist you or go with you. Our staff can also help you if you are a victim of domestic violence and have been charged with a crime.

We can also provide you with accurate information about how the legal system works and what you can expect. We can help you fill out the forms for and get a personal protection order, make referrals for attorneys, and help you with victim impact statements.

Referrals

- If you decide you need a lawyer, we can help you find one who knows about domestic assault.
- If you want information on counseling for your assailant, we will give it to you. If you need help with your children, or with food, we can steer you in the right direction.
- Let us know what you need.

Counseling

You can get counseling and advocacy and information at Harbor House. Whether you're not ready to leave, have left, or just want someone to talk to, you can get counseling for you and your children. It's short or long term.

All of our counseling, whether it happens at the shelter, in support groups, individually or through the on-call teams, is confidential. We will tell no one you are in counseling or what happens in that counseling. There are only two exceptions: 1) when we suspect a child has been abused, we must report that abuse to Children's Protective Services and/or 2) when there is imminent danger of homicide or suicide.

Support Groups

Many battered women say that the most helpful thing they've done is meeting other survivors and talking about common problems. When you come to a support group, you don't have to talk. You can just listen. There are women who are in all stages of the process—women who are still with their assailants; women who are deciding whether or not to leave; women who are in the process of leaving; and women who are long gone.

Lots of women think that they were not "beat up badly" enough to go to a support group. But in our support groups, there are women who were "just" pushed and shoved and women who have been hospitalized.

Call the crisis line to find out about current groups.



SECTION X

SAFETY PLANNING

Safety Planning When You're Still Living

With Your Assailant—Or When You Are Leaving

Here are some things to consider when you suspect your partner is about to assault you again.

- Try to figure out the “warning signs” that come before an assault (drinking, taking drugs, pay day, a bill collector, a bad day at work). Are there physical signs that he is going to hit you (clenched fists, threats, heavy breathing, a flushed face, destruction of property, etc.)?
- Try to get out or get help before the assault.
- Are there any weapons in the house? Where? Can you remove the weapons? The ammunition? Lock them up?
- When an assault occurs, try to move to a room or area that has access to an exit. Avoid a bathroom, kitchen, or anywhere near weapons.
- Can you figure out a signal for the neighbors to call the police? Can you teach your child(ren) to call the police? Or can you go to a neighbor's and call?
- Can you and your children memorize telephone numbers to call for safety?
- Can you hide a cell phone if your assailant destroys the phone in your house? (Sometimes you can get a special cell phone that calls the police and/or the shelter from your local police or from Harbor House)

Think ahead and prepare for situations where you may need to leave in a hurry.

- How will you get out of the house? Some women take out the garbage, or walk the dog, or get the newspaper, or offer to go get him cigarettes. Set up a routine where it's normal for you to leave for a short period of time.
- Where will you go when you get out of the house? Where is the nearest telephone?
- Try to collect and hide money.
- Put important documents in one place where they can be grabbed easily.
- If possible, leave copies of documents, spare clothes, spare keys to the car and the house, and money with a neighbor or trusted friend.
- Think about taking money from any bank accounts. This is not stealing. You can always give it back. Our experience is that if you don't take it, your assailant will take it all.
- Reach out for help. Enlist your friends, family, co-workers, neighbors and professionals in your safety planning.

WARNING:

Violence often gets worse when you try to leave or show signs of independence, like taking a class, or filing for divorce. Your assailant may become desperate that he is actually losing control of you. Or he will decide that you have left for good, and will take revenge out of malice and spite. Take special care.

WHAT ABOUT THE KIDS?

TAKE YOUR CHILDREN WITH YOU!

If you do not have your children with you, you will NOT be able to file for temporary custody of your children. The parent who has physical possession of the children will almost always get temporary custody.

Assailants often kidnap children or threaten to harm them in order to get their partners to return. If the assailant has physical possession, he can get temporary custody. If he gets temporary custody, you cannot legally take the children from him. You will have to go to court and contest the temporary custody.

Even if you know your assailant has been abusive to the children, if there is not presently an open child protective services case against him, the court will probably NOT give you temporary custody if you do not file first.

Safety plan with your children! Teach them to call 911; practice what they should do during an assault; decide on a code word that means they should get help.

Tell your children's school and day care what is happening, and who has permission to pick them up (and who doesn't).

What to take with you:

- Your life and your safety are most important.
- Trying to bring your children is important.
- Everything else is secondary.

If you **can** do it, here is a list of things you should take with you.

(If you're worried about taking something of his - remember, you can always give it back.)

1. Identification. Driver's license, birth certificate for you and the kids, voter registration card, credit cards, work identification, unemployment card, green card, passport, baptismal certificate, marriage license, adoption records.
2. Social security numbers for you, your partner, and your children. Bring your own and your children's cards if available.
3. Medical records. Health insurance information.

4. Keys to the car and to the apartment or house.
5. Any welfare records.
6. Financial information such as bankbooks, checkbooks, savings records, stocks, insurance, pensions, etc.
7. Prescription drugs. Copies of prescriptions for you and the children.
8. Spare eyeglasses or contact lenses for you and the children.
9. Money.
10. Photos, diaries, address books.
11. Clothes and toys are the last priority. They are replaced most easily.
12. Automobile. If the car is in your name, take it. If it's in both your names, take it. If it's in his name, and he has another car, and you're married, take the car.

When your assailant finds that you are gone, he will probably destroy things that are important to you. **IF** you can, take things that are not replaceable, things with significant sentimental value. Assailants usually take any money that is in a joint account, and if they have access to your credit cards they will use them. If you think your assailant knows your credit card numbers, you might want to change them.

SAFETY PLANNING AFTER YOU'VE LEFT THE ASSAILANT—STALKING AND HARASSMENT

- Change the locks.
- Find a neighbor you trust who would call the police if the assailant is around.
- Get motion sensor lights. Consider a large dog.
- Set up a routine with a friend or family member who will check in with you on a regular basis. Agree on a code word that means you're in danger.
- Vary your regular routine to avoid the assailant following you. Leave for work at different times; don't always go to the same grocery stores.
- Use a private post office box such as Mail Boxes, Etc. They have post office boxes that have a street address. File a change of address card with the U.S. Postal Service. Use it for all mail, packages, and magazines.
- Get an unpublished and unlisted telephone number.
- Order line blocking for your telephone number.
- If you have a personal protection order, keep a copy with you at all times.
- If you live where there's security, or a manager, give them a picture of your assailant and a copy of the PPO. Give a picture, a copy of the PPO, and any custody documents to your child's school as well.
- Try to live in an apartment complex with an outside door to each building that is locked.
- Ask your neighbors not to buzz someone in.
- If you can, keep your car in a garage to avoid the assailant messing with it.
- Document all contacts by the assailant. Save letters and cards, tape voice mail messages, and phone calls. Make copies of emails. Keep a journal of all strange occurrences.
- If your assailant must get something from your home or you need to get

something from his, call Harbor House. We can request that the police do a “civil standby” so that you can be safe.

- Have your name removed from reverse directories. The entries in these directories are in numerical order by phone number or by address. These books allow anyone who has just one piece of information, such as a phone number, to find where you live.
- Be careful who you tell where you are. Unfortunately, assailants usually find their victims through family members. Your sister may tell his sister who tells him.
- If you can, install your phone line in another residence and use call forwarding.
- After you leave, remember to change the password on any voice mail that you use, and change the retrieval code for a telephone answering machine. Change your email password.
- Remember that anyone with a radio scanner could listen in on a cell phone conversation or on a cordless telephone if they are within two miles distance. Digital phones may offer greater privacy but they are more expensive and not foolproof. Be careful not to reveal any private information on a cell phone or on a cordless phone.

RETRIEVING BELONGINGS AFTER YOU HAVE LEFT.

If you need to get something from your assailant’s home (or your former home) or if your assailant must get something from your home, call the police to request a “Civil Standby”.

(Harbor House can help you get a civil standby). This is a request for the police to come and stand by to ensure that there will be no violence or harassment during property transfer. Usually the police can only stay for 15–20 minutes, so if you need more time, you might have to do it more than once. Remember, that police are not **required** to do civil standbys.

SAFETY IN THE WORKPLACE

- Inform your boss, co-workers, and any security of the situation. Provide them with a picture of the assailant, and a copy of the personal protection order.
- Ask that your calls be screened or sent directly to voice mail.
- Ask that your office be locked or make sure that the front desk does not let him in.
- Ask that your current home address or phone number not be given out.
- Carpool to work with someone, or ask security to walk you to and from your car each day.
- Ask if you can vary your work schedule.
- Suggest to your boss that someone from Harbor House come and consult with them and/or do a talk for employees about domestic violence. This may help them take your situation more seriously.

SAFETY FOR SURVIVORS AND THEIR CHILDREN DURING VISITATION

- If visitation is ordered by the court, try to have visitation arrangements made through a third party with whom you feel comfortable.
- Work on having drop off and pick up happen in a public place (police station, near mall security, post office lobby) or have it happen at a third party's home.
- Try to avoid arriving at or departing from the drop off/pick up site at the same time as the assailant.
- If the exchange of children must happen at your home, try to have the custody order specify that the assailant must wait in his car across the street, and that he cannot come to the door.
- Arrange for a supportive, calm and mature friend to be present during the exchange.
- Have the kids all ready to go before he arrives.
- Keep the door locked in case he shows up early.
- Document all problems with visitation and report them to the Friend of the Court.

The concept of safety planning was originally developed by Barbara Hart. Thanks to Erin House for major contributions to the section on safety planning.

SAFETY USING THE TELEPHONE CALLER ID ISSUES

Many assailants use Caller ID as a way to monitor their partners' conversations. By reviewing the incoming calls on the Caller ID, assailants can find out who has called while they were gone. Even assailants who no longer live with their (ex-) partner may insist on reviewing or sneaking a peek at the Caller ID when they come over. Monitoring who you talk to and interrogating you about what you say is a tactic your assailant is using to control you and to isolate you from other people.

If you have Caller ID and you are concerned that your partner may give you a hard time about who has been calling you, there are a few things that you can do. You can disconnect your Caller ID from the phone but not from the power source so that the machine cannot record incoming calls. You can ask people to "block" their number when they call you by dialing *67 before they dial your number. When *67 is dialed, only the word "private" will appear on the screen. Sometimes only the word "unavailable" will appear on your Caller ID; this indicates that the machine is unable to determine the number and/or name of the person who is calling. Unavailable numbers are often telemarketers or people calling from other areas without Caller ID service. If someone calls you from a cell phone the name will appear as "unavailable" but the number will be displayed.

If you want to call your assailant but do not want him to know where you are, always dial *67 before calling his number. More and more people have Caller ID

and if you are concerned about not revealing your number, it is important to get in the habit of **always** dialing *67 before you call any number. If you call from a pay phone the name of the business where the pay phone is located, as well as the number of the pay phone, will appear on Caller ID. Your assailant will be able to determine what area you are in, if not your exact location. If you call your partner from another county or state, the name is more likely to come up as unavailable. Usually the phone number where you are calling from (with the area code) will be displayed on Caller ID. Many cell phones have Caller ID on them, so if you contact your assailant on his cell phone your number may appear.

If your assailant is stalking you by calling you repeatedly, you can use your Caller ID as evidence. (You can also use messages recorded on an answering machine or voice mail.) You can call the police and have an officer come look at the Caller ID at your home. Or you can take your Caller ID machine in to the police station to have them verify the numbers on the machine and to make a police report about the harassing, repeating calls. If your partner always “blocks” his number when he calls you, you can contact the police department and the telephone company to get a trace put on your phone. If you agree to follow through with criminal charges if the trace identifies repetitive and harassing calls, the phone company should not charge you for this service. You can also contact the phone company and ask that they set your phone so that it will not receive “blocked” calls. This means that anyone that dials *67 will not get through to your phone but will instead hear a recording that says, “This number does not accept blocked calls.” Consequently, people calling you would have to reveal their number in order for the call to ring into your home.

Dialing *69

If you or your assailant dial *69 your phone will call back the **last** incoming call into your home. If your assailant is trying to find out who just called you, he can dial *69 and call the person back without knowing the phone number. In some areas, the phone company will tell you who called and/or what phone number just called your house before directly connecting you to the other number. If the person calling blocked Caller ID by dialing *67, when you dial *69 the call will ring through but it should not reveal the name or number of the caller. However, if an answering machine identifies the name or number of the person or business it is possible to determine where the call came from even if the caller “blocked” Caller ID initially. If a number appears as “Unavailable,” usually dialing *69 will not give you any information but will tell you, “This service is not available for this number.”

This section was written by Erin House

SAFETY USING A FAX MACHINE

When you receive a fax, it usually has the telephone number of the fax machine used to send the fax. It also has the day and time. So if you send your assailant a fax, it will let him know the general area where you sent the fax from, and when and where.

USING YOUR COMPUTER SAFELY AND PRIVATELY

Change your password often, and don't tell anyone what it is. Set up a program that you need a password even to get ON your computer, and change it often. Don't use anything the assailant would guess.

When you use a computer on the Internet, it records a lot of information about what you have been doing. This is meant to make it easy for you to go back to places you have been on the Web, or to recall what someone said in a Chat room. Unfortunately, others can look at this information too, if they have physical access to your machine. So you need to know how to clean up after your software, and keep information that could put you at risk in your own hands alone. If you don't feel comfortable with this task, consider going to an Internet cafe, or library, to access the Net instead.

Web Browsers

When you use a browser, like Internet Explorer or Netscape, it records the URLs of the sites you visit, and information about those sites, in several places. For some things, like "cookies", it's best to prevent the browser from storing them. For other things, like the browser "cache" or "history", this cannot be done, so you must do some cleanup whenever you finish a Net session.

Netscape

To prevent Netscape from accepting cookies, go to Options | Network Preferences, pick the Protocols tab, and check the box for "(Alert before) Accepting A Cookie". Then you will be asked whenever a site you visit tries to set a cookie, and can refuse it. Do this **before** you start browsing.

For Netscape 4, go to Edit | Preferences. To clear the cache, select Advanced, then Cache, then press the "Clear Disk Cache" button. To clear the History, press the "Clear History" button.

Earlier versions of Netscape, 2.x and 3.x, are a bit more complicated to clear. To clear the Disk Cache, **after** you are done browsing, go to Options | Network Preferences, the Cache tab, and push the "Clear Disk Cache Now" button. Clear the indication of which links have been visited with Options | General Preferences, the Appearance tab, where you press the "Expire Now" button in the lower right.

That still leaves the "History" window. Unfortunately, there is no button for it. You will need to close Netscape, then go to the directory where Netscape is really installed, and delete the file "NETSCAPE.HST" that you find there. If you don't know where Netscape is installed, do a search for the NETSCAPE.HST file in Windows Explorer (not Internet Explorer).

Some versions of Netscape may also have a list of recently accessed URLs in their preferences file. After you exit Netscape, look for that file (one that has a real recent date/time in the Netscape directory), and see if such a list is in it (using Notepad). Delete whatever you need to.

Internet Explorer

You can clear Internet Explorer from its Internet Options panel, the General tab, which is under View in some versions and under Tools in others. Press the button “Delete Files”; in the History section, press the “Clear History” button. It’s also a good idea to change the amount of disk space used to store temporary files; move its slider all the way to the left. Finally, change the days-to-keep-page setting to zero.

Under Internet Options, Advanced, turn off “Use Autocomplete”, as that can also clue someone in about visited locations.

Chat and Instant-Message Programs

If you use ICQ, AOL Communicator, Excite PAL, or the like, make sure you clean out the history information. You may also want to use aliases for some of the names of the people you connect with. Remember that these programs store every word you send or receive, just like email.

Chat programs like MIRC can also have logs that you need to delete. Even worse, many chat rooms have archives that can be accessed later by anyone; AOL is known for this. And people may be lurking who you’d rather not talk to. Be very careful what you say in such places, and use an alias that only your good friends know.

E-Mail

There are many different e-mail programs, and they all have different ways of storing messages. You may need to check the “Outbox”, the “Sent” folder, and any other folders you did not create yourself to see what is kept there.

If you use Netscape Mail, empty the Trash folder to keep your deleted messages from coming back to haunt you. To do so, go to the File menu and choose Empty Trash Folder.

If you use Eudora, make sure that you “compact” the mailboxes after you delete messages. Otherwise the messages are really still in there, and can still be retrieved. The mailbox might show 0/0/119K in such a case; make sure it says 0/0/0K when you are done.

Word Processing Files

If you write a letter in a word processor, like Word or Works, make sure you know exactly where the file is being saved; if you need to delete it, you must know the “path” to the file. If you have a good hiding place for floppy disks, you may want to keep all your files on them, so that you never have anything on the hard disk that could put you at risk.

Some word processors save a temporary copy of the file you are working on, so that they can recover it for you if you forget to “save” before turning off your computer. If you think this may have happened, you can check by shutting down the word-processor, then starting up again without choosing a document first. If it has a “recovered” document on disk, it will usually load it automatically then. If you close the document and tell the word processor **not** to save it, that should

remove the “recovered” version. Otherwise, it may “pop up” in front of the next person to use the word processor.

Another “helpful” feature that can leave full, readable copies of your files around is the “backup” feature, which saves the previous version of your file someplace with the same name and extension .back or (for Word) .wbk. In Word, check the Tools | Options | File Locations tab to see where such copies of your files may be kept. You can also use Tools | Options | Save tab to stop the backup process entirely; just uncheck the “Always Create Backup Copy” and “Automatic Save” boxes.

Many word processors let you save your file with a password, so that nobody who doesn’t have the password can read them. The “encryption” used is not real strong but may be good enough to stop someone who isn’t real computer-savvy. Unfortunately, people do lose passwords, and so there are many tools on the net to help you “recover” the lost password. Somebody who wanted to read your file could use one of those programs, and defeat the password. So this is **not** a very good way to protect your documents.

Watch out for the File menu, too. Many Windows word processors, as well as spreadsheets and other applications, keep a list of recently used documents on their own File menu. In Word, you can change this with Tools | Options, the General tab, by setting the number for the Recently Used File List to zero (4 is the default). If the list disappearing would be a problem, you can also just open and close files until they push the hazardous names off the end of the list.

Deleting Files

When you delete a file on Windows 95 or 98 or the Mac you may think it is gone. But it’s not. It’s merely in the Trash (or Recycle Bin), and can be hauled out any time up until you “empty the trash”. Even then, someone with computer knowledge can use tools that resurrect the deleted file much of the time. It’s really best to use floppy disks whenever you can, so that you can physically put the disk with the files someplace safe.

In Windows 95 and 98, you will also see references to the documents you create under the Start button, Documents. You can clear the whole list by right-clicking on a blank part of the Taskbar, and choosing “Properties.” Pick the “Start Menu Programs” tab, and click on the “Clear” button under the “Documents menu.” Note that this does not remove the document itself, just the mention of it in the Documents list.

If you want to minimize suspicion by leaving the list, but just removing one or more particular documents, you can do that using Windows Explorer. Go to your Windows directory, and open the Recent folder in it. You will see a shortcut for each entry on the Documents list. Right-click on each one you want to get rid of and select Delete from the pop-up menu. Then go empty the Recycle Bin to finish the job.

Thanks to the Spiderwoman list for their help on this section.

ON AMERICA ON-LINE

If you're still living with the assailant, he can read your email if he knows the password on the master account. The master account is the first screen name created when the account was opened. He can change the password of any other screen names on that account if he has access to the master account. If he knows the credit card number you set up the account with, he could have someone call, pretending to be you and change the password. (If you don't store your password, but enter it every time you sign on, you would know that the password had changed).

If you've left him, buy your account with a credit card that lists the mailbox address (of a place such as Mailboxes, Inc.) and give AOL the mailbox address as well. AOL is not supposed to release information about subscribers, but mistakes happen. You can create different screen names and unless the assailant has physical access to your computer (or knows someone who does), he won't know what those screen names are. Therefore, he can't set up his "Buddy List" to track you whenever you are online.

If you know his screen name, you can block him from tracking you through Buddy List, and you can also use keyword "mail controls" to block email from him.

Save any email he sends you. If you receive "instant mail" from him, print it out and save it.

All of these things are evidence that he is stalking or harassing you.

If you use a provider other than AOL, consult directly with them about the best way to secure your account.



SECTION XI

WHAT ABOUT MY CHILDREN?

Children are in danger in homes with a batterer for many reasons. A lot of assailants hurt the children physically, and some sexually abuse the kids. Your assailant may kidnap your children to try to get you back, or to get revenge on you. Batterers seek custody of children for the same reasons.

Children can be hurt "indirectly". Your batterer may be trying to shoot you and "accidentally" shoot a child. Or he may push you down the stairs while you are holding the baby, and the baby may be hurt. Children may get hurt trying to protect you or restrain the batterer.

Children in homes where there is violence may start behaving in negative ways, or develop psychological problems. Some children become the perfect kids—they take care of everything, and became overachievers. Others act out—get involved in gangs, or start having a lot of sex, skip school, drink or use other drugs. Kids may be either very withdrawn or very aggressive. Boys start thinking that it's okay to use violence in intimate relationships and are in danger of doing it when they are adults.

Some survivors think their children don't know about the violence, and

therefore aren't going to be hurt by it. Children from violent homes tell us that they almost always know about the violence, even when they weren't present when it occurred.

Many survivors wonder how their children are doing and what they should say to them about the violence.

We recommend that you talk to your children about the violence and what is going on AND we recommend that you find some other helpful adult to talk to your kids.

Here are some suggestions:

- violence is always wrong, and what dad (or step-dad or boyfriend) is doing is not right;
- the violence is NOT their fault—nothing they did or didn't do caused the violence;
- if you're separated from the assailant, that's not the kids' fault;
- the assailant does it because he wants to get his way and he has a problem;
- safety plan with your child—what to do during the attack; how to keep safe during an assault; how to call 911; where to run for help; what to do during visitation if something goes wrong

Don't blame yourself because of what the assailant's violence has done to your kids.

Take inventory of the ways that you've protected your children, and build upon that.

Some children from violent homes do extremely well later in life, particularly if there is early intervention to help them sort out what's happened to them.

International Parental Abduction:

Sometimes a batterer will threaten to take the minor children out of the country, or will actually attempt to do so. U.S. citizens must enter and depart the US with a valid US passport, except when traveling to countries within the Western Hemisphere (e.g., Canada, Mexico, and other Central and South American countries). If your children are citizens of the United States, and you are concerned that your partner may take them out of the country, you can participate in the "Children's Passport Issuance Alert Program" run by the State Department. This program enables the State Department to notify a parent or legal guardian that a passport has been requested for the child(ren). You must submit a written request to the State Department for entry of a child's name into the program.

To participate in the Children's Passport Issuance Alert Program, you can: (1) call 1-202-736-7000 and request copies of the Request form; or (2) download the Request form from the State Department website at http://travel.state.gov/pia_program.html. Simply fill out the request form and fax it back to the number indicated on the form.

Submitting this request does not necessarily mean that a passport request for your child will be denied. In order for the State Department to deny a passport for your child, you must submit a complete copy of a temporary or permanent court order that states either: (1) that you have sole legal custody; or (2) that you have joint legal custody; or (3) that there are restrictions on the child's travel.



SECTION XII

CHILD ABUSE AND NEGLECT

If you believe your partner has sexually or physically abused one or more of your children, what do you do?

Believe your child. Children almost never lie about abuse. Tell your child you're glad she or he told you, and that you will try to help them be safe in the future.

Be aware that some institutions may assume that your child is lying or they may assume you are lying to get revenge on your husband, to get child custody, or to win a court battle. Keep a log and write down all incidents and all statements about the abuse.

Get your child some counseling. Call our crisis line at (906) 226-6611 or 1-800-455-6611 from Alger County (voice) for a referral.

Get some support for yourself.

Make a Children's Protective Services (C.P.S.) report. In Marquette County, their number is (906) 228-9691. This is a 24-hour number. You can also call the police. Give C.P.S. and the police as many concrete details as you can. Understand that they cannot take action based on what your child has told you. They will have to hear it directly from the child.

If your child has been sexually assaulted or abused, he or she should have a medical exam. However, do not take him or her to your family doctor for an exam. Most doctors are not trained to do such exams, and it would be traumatic for the child. Ask Children's Protective Services to make a referral to a physician trained in forensic examination of child sexual abuse.



SECTION XIII

EDUCATION AND COUNSELING FOR ASSAILANTS

All survivors want the violence to stop, but not all want the relationship to end. Ideally, they'd like the relationship without the violence. The hard truth is that almost no assailants stop being violent towards intimate partners. If they do reduce or eliminate their violence, they do so over a long period of time, and with intensive counseling, education and sanctions for continuing the violence (like probation, the threat of jail, or the threat of losing a job).

Many survivors want their batterer to get help, and some want to save him. **Nothing you do makes him abuse you; nothing you do can make him stop. He chooses to be violent. He must make the choice to stop and he must stick with that choice no matter what happens.**

To stop being violent, batterers must really want to change and must make a long-term commitment. They must take full responsibility for their violence without making excuses or blaming others. The very few batterers who do change were forced to because of serious consequences (jail works the best!). Interventions that do work take one year or longer. It will not happen overnight.

We worry about assailants going to counseling, because one of the reasons some battered women stay in abusive relationships is that they believe their partners will change. If the assailant enters treatment, counseling or a batterers' intervention program, the survivor may stay longer in the relationship in the hope that the violence will end.

A lot of batterers go to counseling one, two or three times. They use the counseling to convince their partner to return to them. Then they drop out of counseling.

They have lots of excuses for dropping out such as: the fee is too high; I'm not like those other men; they want to brainwash me; they blame men for everything; the hours are not reasonable, etc., etc. Some assailants lie and say that they are going to counseling and they are not.

What does NOT work:

Traditional counseling that seeks a solution to violence by looking at and resolving the batterer's personal problems (such as violence in the home where he grew up).

What does NOT work:

Traditional counseling that sees the survivor as having any role in the violence.

What does NOT work:

Marital or couples counseling. In addition to almost never working, this can be dangerous for survivors. Batterers often push for this type of counseling, because they insist that the violence is caused by their partner, or is a mutual problem.

What does NOT work:

Programs that concentrate solely on reducing stress or managing anger.

What does NOT work:

Quick fix programs that are short-term and promise immediate results.



SECTION XIV

ALCOHOL AND OTHER DRUGS

Many people believe that alcohol or other drug use causes men to assault their partners. This is not true. Battering and alcoholism or other drug addictions are two separate problems.

More than half of the men that batter who are in counseling at the batterers' programs in Marquette County also have alcohol and other drug problems. If your assailant has an alcohol or other drug problem (or if he drinks heavily or uses other drugs, especially crack) you are in greater danger of being more seriously hurt when he is using.

Getting him into treatment for his alcohol or other drug problem will not stop his violence.

What if you are using?

We recommend that you not use alcohol or other drugs during the time that you are trying to get free of an abusive relationship. It may stop you from carrying out your plans and/or from getting the best response from people you need to get help from.

But, what if you are?

A lot of batterers encourage their partners to drink or use drugs, and prevent them from stopping, or getting help to stop. This keeps you easier to control.

Some survivors have been prescribed minor tranquilizers by doctors. Few know that minor tranquilizers are extremely addictive. Used with alcohol they can be fatal. Some women who are being battered use alcohol or other drugs to numb the pain—the physical and emotional pain that they experience in violent relationships.

A lot of women have problems with alcohol or other drugs. Our culture looks down on women who are addicted. But - it's nothing to be ashamed of - it's not your fault. It's a common experience. Addiction/alcoholism is a physical response to the alcohol or other drug. You're not a bad person, or weak, or immoral.

Think about getting some help. You can talk to a Women's Center counselor about your use. Or you can go directly to an agency which specializes in helping

people with alcohol or other drug problems (see the end of this booklet).

You could go to an Alcoholics Anonymous meeting or another self-help group. (Note: Some self-help groups may tell you that you are as sick as your batterer and enmeshed and responsible for his violence. This is not true. Stick to their message about alcohol, and forget their ideas about battering.)



SECTION XV

IF YOU ARE A LESBIAN OR GAY MALE SURVIVOR

Physical and sexual violence happens in lesbian and gay relationships. Many of the same things happen that occur in heterosexual battering relationships— isolation, psychological abuse, sexual violence, physical assaults. If you are a lesbian or a gay man who is being battered by your partner, you will probably have additional special issues when your partner batters you.

The bottom line is—getting help for the violence usually means coming out. Coming out is dangerous. It could mean death, physical violence, loss of family, being thrown out of housing, losing your children to the state or to the batterer, or being fired from your job. Your partner may threaten you with outing if you decide to leave. S/he may use the special concerns and issues of the lesbian and gay community to keep you under control. S/he may tell you that by letting others know about the abuse you're reinforcing the homophobia of the straight culture, and are selling out lesbians and gay men. If this is your first sexual relationship with someone of the same gender, s/he may lie and tell you that all same gender sex involves humiliation, force, or coercion. Lesbians and gay men cannot routinely turn on the television and find portrayals of positive lesbian and gay relationships. This leaves them more vulnerable to partners telling them that "all gay men" do this, or they are not "real lesbians".

You may be afraid to tell your family because this may reinforce their views that you're in a "sick" lifestyle. You may not want your partner to lose her/his job or family by reporting her or him to the police, and therefore revealing her or his orientation. You may not want to expose the lesbian or gay male community to more criticism. You may be new to relationships, and may believe this is just the way they are.

Helping professionals may be homophobic and may not view your relationship as valid or as legitimate as heterosexual intimate relationships. You may encounter a therapist or religious leader or other professional who actually believes that lesbian and gay relationships are really sick or sinful.

If you're a lesbian, you may have trouble identifying that you are being battered because you believed that only men use violence in intimate partnerships. Your partner may tell you that she is not "butch" and you have to be "butch" to batter.

If you're a gay man, you may think that real men don't get beat up, or that you should be able to protect yourself because you're a man. If you practice anal sex, you may be at higher risk for contracting HIV. There also may be more danger

if your partner refuses to practice safe sex, rapes you, or causes cuts or abrasions. If you are HIV positive, your partner may threaten to tell people. You may have heard the myth that shelters don't help or accept men, and may not see a domestic violence agency as a potential source for help.

You may be particularly concerned about confidentiality because of how small the lesbian and gay male community is. All information given to any employee or volunteer of the Women's Center is confidential. However, you may want to use a different name. You might also want to get counseling or support in a different county.

You may be concerned about encountering homophobia from staff, volunteers or straight survivors. All staff and volunteers of the Women's Center have training on homophobia, and are given information about the special issues lesbians and gay men face in battering relationships. If you feel that the counselor you're talking to is not as sensitive as you would like, ask to talk to a supervisor. When you request non-residential counseling, you can request a lesbian counselor. We will do our best to see that you get one.

Our experience has been that lesbian and gay male survivors are usually treated sympathetically by heterosexual survivors in our programs. The commonalities of being battered seem to outweigh the differences of your partner being male or female.

You CAN get a personal protection order and you CAN get an anti-stalking civil order. Your partner can be prosecuted for criminal assault.

You may have heard that domestic violence programs don't accept anyone but heterosexuals. the Women's Center assures you that you will be welcome at our program. We continue to work on increasing our sensitivity and accessibility to lesbians and gay men who are being battered.



SECTION XVI

IF YOU HAVE A PHYSICAL DISABILITY

Assailants may perceive people with physical disabilities as easier to control, and some assailants may choose people with disabilities to batter. Assailants often use the disability as another method of control. You may be being battered by your personal care attendant. He might withhold food, or might not help you use the bathroom. He might give you too much medicine or might refuse to give you your meds.

Because of environmental barriers (buildings, bathrooms, buses that are not accessible), people with physical disabilities are already isolated. The batterer may be increasing that isolation through such tactics as removing the wheelchair ramp, removing the T.D.D. or not helping you get places. If you are unable to drive a car, use a bus, or take a cab, it will be more difficult for you to escape.

There is a myth that caretakers batter people with disabilities because they are frustrated with taking care of them. This is not true. Assailants batter in order to control their partners.

Helping professionals may think that people with disabilities are sexless, and may have trouble perceiving your relationship with your assailant as legitimate.

You may want to get additional assistance if you have a physical disability. We recommend you contact SAIL at 228-5744. The Women's Center is trying to be as accessible as possible to those with physical disabilities. We can and will shelter you and your personal care attendant (if the p.c.a. is not the assailant). Shelter and counseling services are accessible by wheelchair.



SECTION XVII

IF YOU ARE A SURVIVOR AND AN ELDER

Survivors who are older adults may face some additional obstacles or challenges. Most people assume that “elder abuse” only means adult children hurting or exploiting their parents, so if you’re being battered by an older partner it may be ignored. Some may think that “old” men are not physically strong enough to batter or rape, so you couldn’t be being abused.

You may have special concerns about losing your home or income from social security, or health insurance if you were to leave your assailant. Shelters, which tend to be noisy and chaotic, may appear particularly unwelcoming. You might be concerned about losing your independence, or being institutionalized.

If you are in poor health, or experiencing problems with a disability, your assailant may capitalize on them. He may withhold medication necessary for you, or give you too much. If you rely on your assailant for personal care, he might withhold food, or water (see section on disability). If you’re not working outside the home, he might find it easier to isolate you from supportive friends. You may be particularly worried about your assailant’s poor health, or destructive behavior, and wonder what would happen to him if you were to leave.

You may not think of yourself as “battered”, but if you’re being hurt and controlled you probably are. the Women’s Center can help you find resources to become safe and to stay independent. We work closely with area organizations concerned with the economic and social well-being of older citizens. Please call us so we can work out a plan with you.



SECTION XVIII

IF YOU ARE A WOMAN OF COLOR

Women of color are much less likely to receive help from systems than white women because of racism. Women of color are less likely to be believed. Society still thinks that violence is “normal” in communities of color, and that battered women therefore do not need help.

Professionals may use the excuse “well, battering is acceptable in that culture” to not help women of color.

Your assailant may use your common experiences with racism, and understandable fear of racism, to keep you under control. He may tell you that if you “have him arrested,” he may be beaten or killed by the police. If you know that this is a real possibility, it makes it harder for you to make the decision to call the police.

He may suggest that you are “selling out” to the white man by seeking help from outside your own community. He may ridicule you by saying that you’re going to a bunch of white women for help.

He may tell you that because of racism, you should do what he tells you so that he can feel like a real man.

If you don’t speak English, or if English is not your first language, or you are from another country, you may face more barriers to help.

You may be concerned about encountering racism from staff, volunteers, or white battered women. All staff and volunteers of the Women’s Center have training on racism, and are given information about the special issues that women of color face in battering relationships. If you feel that the counselor you are talking to is not as sensitive as you would like, ask to talk to a supervisor.

There are counselors who are women of color at our shelter. When you request non-residential counseling, you can request a counselor who is a woman of color. We will do our best to see that you get one.

As in any place in our society, women of color sometimes get treated in a racist way by white women using our program. Our experience has been that in general women of color and white women have supported each other when they have been using our services, and that the commonalties of being battered seem to outweigh the differences of race.

We’re committed to helping you—please call us!



SECTION XIX

IF YOU ARE A SURVIVOR OF DATING VIOLENCE*

For a long time, people didn't realize that domestic violence happened among young people in high school or in college who were dating. There was an incorrect assumption that domestic violence only occurred among people who are married.

One problem is the term "dating". High school students today may not describe their relationships with other kids as dating. You all may hang out in a group together, or may never go out on a "date". But whenever there are romantic, or sexual relationships, there's the possibility that there could be violence or abuse.

Young people face additional obstacles to getting help when they're being abused. If this is the first time you've had a serious boyfriend or girlfriend, the friend may tell you "This is the way it is—all relationships are like this." If they are intensively jealous and possessive, they may say—"this is what real love looks like". You may be confused because he says he can't live without you, and wants to be with you every single moment. He may convince you that it's your fault because you dress in a certain way, or like to dance or flirt. He may threaten to ruin your reputation if you break up with him, and you may be afraid you won't get another boyfriend. You may not want to tell your parents or other adults about the abuse because they don't approve of the relationship. You may have broken rules in seeing your friend, and you don't want to get yourself or him in serious trouble, or be saddled with more rules and restrictions.

Adults may not take your relationship seriously. They may tell you you're too young to know anything about love, or that you are going through a phase. Your boyfriend may have cut off relationships with your friends, and it may be hard to approach them for help. The law doesn't protect survivors of dating violence in the ways it protects those married, living together or who have a child in common. For example, police cannot arrest without a warrant in misdemeanor assault cases if the only relationship that exists is a dating relationship.

If you're being hurt and abused in a dating relationship, please call us at **226-6611 or 1-800-455-6611**. Survivors of dating violence **can** get a personal protection order, and assailants can be prosecuted. You can get an anti-stalking personal protection order, and your assailant could be criminally charged with stalking. We'll listen and believe in you. There IS help available, and healthy, non-violent relationships can happen!

***We recognize that people other than high school and college students are in dating relationships. This section focuses on the special issues of young people.**



SECTION XX

IF YOU ARE ALSO A VICTIM OF SEXUAL ASSAULT

A large percentage of survivors of physical violence are also sexually abused. Sexual abuse can happen in a number of different ways in domestic violence relationships. He might target your genitals or breasts in an assault. Many assailants demand sex after a beating to “make up”. He might force you to do things you don’t like sexually, or that physically hurt. He might force you to have sex with others, or to act out what happens in pornography. He might take pictures or videotapes of you, and threaten to use them against you in the future. He might deliberately give you a sexually transmitted disease, force you to end a pregnancy, or prevent you from terminating a pregnancy.

It’s sometimes hard for survivors to recognize sexual abuse. Your assailant might tell you that he’s your husband and you’re supposed to give him what he wants sexually. If you have sex to keep the peace, or to avoid a beating, you may not see that as coerced sex. You may feel too ashamed, soiled, or degraded to talk to someone else about it.

It’s always wrong for someone to force another person to have sex, and it’s never the fault of the victim.

If you’ve been raped or sexually abused, you may have some special worries. If this has just happened, please call us at **226-6611** or **1-800-455-6611** and let us help you.

You may not want to bathe or change clothes (if you do, at least save what you were wearing).

Think about getting medical attention. Medical professionals will want to do a standard sexual assault kit. This may involve: getting a saliva sample; cleaning under your fingernails; combing your pubic hair for evidence; taking your underwear; photographing any cuts or bruises; and conducting a pelvic exam. The police may come and take a report from you.

In two or three weeks, you may need a test for pregnancy (if you were raped vaginally by a penis), and tests for sexually transmitted diseases. In six months, you should be tested for HIV.



SECTION XXI

IF YOU ARE A BATTERED IMMIGRANT WOMAN

If you are a battered immigrant woman you may have special concerns or issues with which you need help.

First, some people in the United States may think that battering and abuse is “normal” in your culture, and therefore may not make vigorous attempts to stop the violence or help you. In fact, battering abuse occurs in ALL cultures and it is ALWAYS wrong.

Second, if you call Harbor House at 226-6611 in Marquette County or 1-800-455-6611 in Alger County, please state the name of the language you speak in English. We will then make every possible effort to get a translator on the line as soon as possible.

If your immigration status depends on your husband who is abusive, you will need special assistance. Don't believe anything your abuser says about the INS or laws in the United States. Assailants often lie, and particularly in this arena (because it's so confusing). Assailants can and will use threats of deportation to keep you under control.

As part of the 1994 Violence Against Women Act, Congress allowed abused women who are married to a U.S. citizen or lawful permanent resident to file their own application for lawful permanent residency. Abused women are not supposed to be forced to obtain permission or help from the abuser. This process is called self-petitioning. Congress also allowed immigration judges the discretion to waive the deportation of abused women who have been married to U.S. citizens or lawful permanent residents, a process called VAWA cancellation.

As you may already know, immigration issues are tricky to navigate.

Do not call the INS.

You will need to find an immigration attorney who knows about domestic violence. **The Women's Center** will help you find one. We recommend that you ask your attorney to consult with one of the following national organizations.

Ayuda

1736 Columbia Road, N.W.

Washington, D.C. 20009

(202) 387-4848

FAX (202) 387-0324

E-mail: cllayuda@erols.com (domestic violence)

National Immigration Project of the National Lawyers Guild
14 Beacon Street, Suite 602
Boston, MA 02108
617-227-9727
617-227-5495
Email: Nip@nlg.org
Web: <http://www.nlg.org/nip>

Then click on domestic violence. The web site has newly updated sections. One includes an Application for Immigrant Status Under the Violence Against Woman Act.

PART II

THE LEGAL SYSTEM AND YOUR RIGHTS UNDER THE LAW HOW DOES IT WORK?



SECTION I

LEGAL TERMS

Alleged:

This word is used by the legal system to indicate that there has not yet been a conviction. You may hear the “alleged” assailant, or even the “alleged” victim.

Complainant:

The person who files a suit, or makes a complaint, or presses charges. If you have filed for divorce, you are the complainant. In a police report, the victim of domestic violence is often called the complainant.

Defendant:

This is the person who is charged with a crime, or the person against whom a suit is filed. If your assailant is arrested, he becomes the defendant.

Defense attorney:

This is a lawyer who represents the defendant in a criminal case. If the suspect has no money for an attorney, the court may appoint an attorney.

L.E.I.N.:

These are the initials for the Law Enforcement Information Network. All police officers have access to the L.E.I.N. computer network which has a record of active warrants for peoples’ arrest, valid Personal Protection Orders (PPOs), and conditional bonds. If you have a Personal Protection Order or, if as part of criminal charges against your assailant, a judge has ordered your assailant to not contact you, not return to your residence, not drink, not threaten you, etc. all of these conditions should come up on the L.E.I.N. computer when the police run your assailant’s name and will allow them to arrest him for violating the orders or for having a warrant.

Magistrate:

A magistrate functions like a judge, but in a restricted role. In district court, arraignments are often handled by the magistrate.

Personal Protection Order:

A civil order issued by the Court which can prohibit the batterer from doing many things, including having contact with the survivor or the minor children, threatening the survivor, sending objects or correspondence to the survivor, going to the survivor's home, school or workplace, interfering with the survivor's work or educational opportunities, having access to school or medical records of the minor children which would disclose the survivor's location or residence, and stalking the Petitioner.

Petitioner:

The person who files paperwork with the court requesting a Personal Protection Order.

Plaintiff:

The person who brings an action. The person who sues or files the complaint. If you file for divorce, you are the plaintiff.

Plea:

The person who has been arrested will at some point "enter a plea." They tell the court they are guilty, or not guilty. They can also stand mute, or plead "nolo contendere." If they plead nolo contendere, which means, "I will not contend", it is similar to a guilty plea. However, the nolo contendere plea cannot be used against them.

Prosecutor:

This is an attorney employed by the County whose job it is to prove that the suspect or defendant committed the crime with which he was charged. If there are criminal charges against your assailant, it is the prosecutor who will prepare the case and present the evidence against the assailant. *You will not need to hire an attorney. The prosecutor will prosecute the criminal case against your assailant.*

Court Appointed Defense Attorney:

Defense Attorney employed by the county to defend people in criminal cases who do not have money to hire an attorney.

Reasonable cause/probable cause:

This means any facts that would induce a fair-minded person of average intelligence to believe that the suspect has committed a crime.

Respondent:

The person against whom a Personal Protection Order is issued.

Suspect:

This is used to refer to the person who the police suspect committed a crime. In assault and battery cases, it would be your assailant.

Subpoena:

This is an official order of the court that tells people that they must come to court. You may get a subpoena as a witness in a civil or criminal trial.

Venue:

The neighborhood, place or county in which an injury is declared to have been done. It also can refer to the geographical division in which an action or prosecution is brought for trial.



SECTION II.

WHAT IS THE DIFFERENCE BETWEEN CIVIL AND CRIMINAL CASES?

A. CRIMINAL CASES

Criminal cases are those in which **the state** (or municipal or federal government) **initiates a case against an individual** (the defendant) in the belief that the defendant has violated the law. Criminal cases are based on the belief that the defendant's actions constitute a violation of the rights of all citizens, or a danger to the community. The community pays for the prosecution (through a prosecutor or city attorney). The defendant is guaranteed the right to representation by an attorney appointed by the court (sometimes the public defender) if he or she cannot afford to hire one.

In the past, too many people thought of domestic violence as a private, family matter (civil) and not a crime. These attitudes are slowly changing.

B. CIVIL CASES

Civil cases are those which are initiated by one private individual or group against another private individual or group. Each individual must provide his or her own attorney.

Divorce, custody, visitation and property settlement are civil matters. If you sue your assailant, that's civil.

Your assailant may drag out divorce and property settlement to wear you down or to make you run out of money. He may use visitation of children as a way to track and harass you. A typical assailant tells his victim that they will never see their children again if they pursue divorce. Too often this has occurred. Since 1993, judges have been required to consider domestic violence when granting

custody of children.

Domestic violence personal protection orders and anti-stalking personal protection orders can be confusing because they are **civil** orders of the court but may be enforced by **arrest** and **criminal** contempt penalties.



SECTION III

DIFFERENT TYPES OF COURTS

Marquette County is trying out a new court system, which may be a little confusing. Judges are assigned to one of the three divisions (listed at the end of this booklet), but any judge may act in any capacity.

A. Civil/Criminal Division of the Marquette County

Circuit Court

The Civil/Criminal Division has jurisdiction over all civil lawsuits over \$25,000, all civil appeals from administrative agencies, and all felony criminal cases (as well as high misdemeanors such as criminal sexual conduct in the fourth degree). If your assailant is charged with a felony crime such as attempted murder or aggravated stalking, the case will be handled in this division.

B. The Family Division of the Marquette Circuit Court

The Family Division includes what were formerly the Juvenile Court and the Probate Court. It handles estates and wills; commitment to hospital care for mentally ill and/or addicted persons; adoption for children; guardianship; juvenile delinquency; and abuse and neglect (foster care).

The Family Division also handles divorce, custody and visitation.

The Family Division handles personal protection orders. There is usually one judge assigned to personal protection orders. This may be a judge who is specially assigned to the Family Division for that purpose.

C. Marquette County District Court

The District Court handles small claims, landlord tenant issues, misdemeanors, and traffic violations.

Crimes are misdemeanors if the potential sentence is one year or less.

Most domestic assault cases (the ones charged as assault, assault and battery, aggravated assault, and stalking) are handled here. Districts Courts also do initial arraignments, set and accept bail, and do the preliminary examinations for the Criminal/Civil Division in felony and high misdemeanor cases. District courts also issue arrest warrants and search warrants. District Courts do NOT handle civil suits over \$25,000, divorces or custody. For lawsuits involving financial claims less than \$1,750, there is a special part of District Court called the Small Claims Division. This is hard to use against an assailant, because he has to agree to give up the right to a jury trial, representation by an attorney and appeal. A District Court may have a magistrate to do some of the work, such as

arraignments, setting bail, accepting guilty pleas, and authorizing warrants. The magistrate's decision can be appealed to the judge.



SECTION IV

WHEN IS ABUSE OR BATTERING A CRIME?

Abuse becomes a crime under certain circumstances. Most abusers commit a number of different crimes. Most assailants contact their partners repeatedly and may be guilty of stalking. Many assailants hurt children and may be guilty of crimes of child abuse, child neglect, or criminal sexual conduct. Lots of assailants hurt or kill pets and most destroy property. They might be charged with arson or malicious destruction of property or cruelty to animals. Assailants who break into your home might be charged with breaking and entering or greater offense of home invasion, if the home is not also owned or rented by him. If he is not the father of your children, and you have a custody order, he might be charged with kidnapping if he takes the children away. Many assailants force their partners to have sexual contact or sexually penetrate. These are crimes.

Name-calling, isolation and intimidation are often not considered assaults. But, you should talk to your advocate about your specific experiences. It takes help to sort out what abusive behavior is criminal and what is not.

A. ASSAULT

Abuse becomes a crime when there is an *assault*. (Assailants can also be arrested if they violate personal protection orders or a no-contact order.) An assault is legally defined as “any *willful* attempt or threat to inflict injury upon the person of another when coupled with an apparent present ability to do so, and any intentional display of force such as would give the victim reason to fear or to expect immediate bodily harm.” This means that if your partner pulled out a knife, and threatened to kill you with it, that would be a felonious assault. But if he called you on the telephone, and said he was going to kill you, that probably wouldn't be considered an assault because it lacks the “apparent present ability” to carry out the threat.

Battery is the “actual application of force.” It's when your partner hits you. It's when your partner pushes you, grabs you, kicks or shoves you. Remember—what your assailant calls “restraint” may legally be an assault.

For the crime to be considered a DOMESTIC assault, you and the assailant would have to be married, formerly married, living together, formerly living together, dating, formerly dating, or have a child in common. Someone convicted of a domestic assault could spend up to 93 days in jail and/or receive a \$500 fine. Most assailants do not go to jail for the first conviction; they receive probation.

When the assault is more serious, or when the assailant uses a weapon, or when the injury is severe the assailant may be charged with more serious crimes.

B. THE CRIME OF STALKING

Abuse *can also become* a crime when there is stalking. Most assailants stalk their partners at one time or another. Stalking is repeated, unconsented contact. The contact does not have to be in person. An assailant who calls on the telephone, sends letters through the mail, or who sends e-mail more than twice without your consent is committing the crime of stalking.

1. Misdemeanor stalking - MCLA 750.411h

Stalking is defined as a willful course of conduct **involving repeated or continuing harassment of another individual**. There must be **two or more unconnected and unconsented contacts**.

The conduct would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested, and the conduct actually causes the victim to feel that way.

If there is evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim, **AFTER** being requested by the victim to stop, this shall give rise to refutable presumption that the continuation of the actions caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Stalking is a misdemeanor, punishable by imprisonment of up to one year in jail and/or a fine of up to \$1,000. In addition to incarceration and fines, an individual found guilty of stalking may be put on probation for up to five years. The terms of probation may include a no contact order, and/or mandatory counseling for the assailant, at his own expense.

If the victim was less than 18 years of age at any time during the stalking, and the perpetrator is five years or more older than the victim, misdemeanor stalking becomes a felony punishable by imprisonment for not more than five years or a fine of not more than \$10,000 or both.

2. Aggravated Stalking - MCLA 750.411i

An individual who engages in stalking is guilty of aggravated stalking if his actions include one or more of the following:

- making a credible threat to kill or injure the victim or a member of the victim's family or household;
- violating a domestic assault or anti-stalking personal protection order (and the assailant has been properly served);
- violating a condition of bond, pre-trial release or probation;
- having a previous conviction for stalking or aggravated stalking.

Aggravated stalking is a felony, punishable by imprisonment of up to five years, and/or a fine of up to \$10,000. In addition to incarceration and fines, probation may be ordered for any number of years, but not less than five years. The terms of probation may include an anti-stalking order, a no contact order, and/or mandatory counseling for the stalker, at his own expense.

If the victim was less than 18 years of age at any time during the conduct constituting aggravated stalking, and the perpetrator is five years or more older than the victim, the crime is punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000 or both.

3. Anti-Stalking Personal Protection Orders - MCLA 600.2950a, MCLA 764.15b

An individual who violates an anti-stalking order may also be prosecuted and convicted of aggravated stalking for the same violation. {MCLA 750.411(6)}

4. Civil suits - MCLA 600.2954(I) (See Section IIB—Civil Cases)

C. THE CRIME OF CRIMINAL SEXUAL CONDUCT

{MCLA 750.520a et seq.}

Lots of assailants do sexual things to hurt their partners. Some of these things are crimes. Some people think that if you are married, it's not a crime to be forced into sex—that's not true. **It is a crime to force another person to have sex regardless of the relationship between the two people.**

There are four degrees of criminal sexual conduct. First, second, and third degrees are felonies. Fourth degree is a misdemeanor.

First and third degrees involve **forced or coerced penetration**. This is vaginal intercourse (penis into vagina), anal or oral intercourse (penis into anus or mouth), or putting a finger or object in another person's genital or anal opening.

Second and fourth degrees involve **forced or coerced sexual contact**. This includes touching the groin, genital area, inner thigh, buttocks, or breasts, or the clothing covering those parts against someone's will.

The seriousness of the crime increases with the number of coercive factors, such as: more than one rapist; a weapon; a physical injury other than the rape; extortion; or the element of surprise. If the victim is under 13, from 13 - 15 and/or the rapist is a member of the family or in a position of authority, this also makes the crime more serious. Criminal sexual conduct does not require a witness other than the victim.

It's still a crime if the assailant is married to the victim. Male on male and female on female assault is also a crime.

D. OTHER CRIMES

Many assailants hurt, torture or kill pets. They may be charged with the crime of animal cruelty.

Often assailants destroy your property. This is also a crime, unless the property is owned by both of you.

The majority of assailants physically or sexually assault children or neglect them.



SECTION V

GOING TO COURT

Whether you are going to court for a divorce or custody hearing, or it's a criminal trial where you're a witness—**going to court is hard.**

We hope these thoughts will make it easier for you. Lots of time people put the focus on the survivor for winning in court (if only she did this, if only she didn't do that). In fact, you don't have a lot of control over what happens in court, although you can make a difference. Some women do find testifying a positive and empowering experience. Do the best you can and take care of yourself in what are very difficult circumstances.

Parking is sometimes **difficult**, particularly if you are in Marquette.

Get a **map** to the courthouse, and know where the parking is, and leave enough time to park. Don't forget change if you're going to be in a metered lot. If you can, do a trial run, by driving by.

Inevitably, **you will be waiting** (often for hours). Sometimes you will wait and the case will be adjourned. Bring a book, or headphones (as long as they are quiet), or a book on tape, or sewing, or something to do while you wait.

In a civil case, you might be representing yourself. Often, you will have an attorney. In a criminal case, you are a witness. In a criminal case, the assailant has a defense attorney. The prosecutor, however, is not your attorney. The prosecutor is conducting the case on behalf of the government. He/she may still be very helpful but it's a different kind of relationship.

Ask your attorney or an advocate to go over for you what is going to happen. Find out if you will be able to stay in the courtroom the entire time or whether you will need to be outside the courtroom until after you testify. Let your attorney or the prosecutor know what things you think are particularly important to stress, and ask your attorney what questions he or she plan to ask you. Make sure you've told your attorney (or the prosecutor) any thing that your assailant plans to use against you (past arrests, history of drug abuse).

Who to bring and who not to bring to court:

Take someone supportive with you if you possibly can. (Other survivors say this is really important). Going alone to court is a bad idea. The Women's Center can usually send an advocate with you to court. (Please let us know as soon as you have any court date). **If you can manage child care, don't bring your kids.** It's hard for them, and distracting for you. Sometimes a survivor will bring a family member or friend along who is not supportive, who argues with the survivor, or who needs a lot of emotional attention. Choose a support person carefully (although sometimes choices are limited).

If you are representing yourself in a divorce, custody, or personal protection order case, **let the bailiff or the judges clerk know when you arrive in the courtroom.** If you are the victim/witness in a criminal case, let the prosecutor

know when you arrive.

The assailant, the assailant's friends, and members of the assailant's family might try to approach you, talk to you, get into an argument with you or harass you. Sometimes you and supporters of the assailant are waiting in the same hall. If your assailant is not in custody, he may be sitting near you. His sister might follow you to the bathroom. Stay with your support people if you can. There is usually another private room that you can wait in—check with your attorney, prosecutor, or advocate.

Your assailant's attorney or the defense attorney may come up to you at the hearing (or call before hand) to talk about the case. You are not required to talk to the assailant's attorney NOR to the defense attorney. He or she may try to make you feel guilty or pressure you.

Report any unwanted contacts to the prosecutor (if a criminal case) or your attorney (if a civil case). **Don't be afraid to approach the bailiff or any police officer.** Tell him or her that you're a victim of domestic violence, your assailant (or his friends or family) is around and you would appreciate his (or her) keeping an eye on the situation. Let him or her know about any no contact or personal protection orders that might prohibit the assailant or members of his family from approaching you. You can ask for a law enforcement officer to walk you to your car after the court appearance.

Take care of yourself both physically and emotionally before and during court time. Avoid using alcohol or other drugs, and do try to eat something. Talk to people who are emotionally supportive of you. Before you get on the stand, take several deep breaths and center yourself.

Dress conservatively and comfortably. Avoid party or sports clothes, and extremes of dress or makeup. Dress the way you would to apply for a job, or go to a funeral.

Take some time before going to court to think about and accurately recall the events that you will be talking about on the stand. Refresh your own memory. If you have a copy of the police report, reread that.

The most important thing is to tell the truth as best you can remember it.

Avoid talking to or looking at the assailant. You may be directed by the judge to identify the assailant by where he is sitting and what he is wearing. Aside from that, the courtroom is typically set up so if you look straight ahead or at the judge or jury, you will not see him.

When you testify, look at the jury. If there is no jury, look at the judge. If one juror looks skeptical or bored, find one that looks interested and look at him or her. If the attorney for the assailant complains, look at the judge for direction. If the judge tells you to look at the attorney for the assailant, look just over his head.

Sometimes your assailant's attorney will ask you several questions at once. For example: "When did the police arrive and what did they do when they got there?" Answer the first one. Don't try to answer them all. Take a deep breath and think for a second before answering questions. **It is okay to say, "I don't know"** if you don't know the answer to a particular question. It's fine to say, "I

don't understand the question", or "Could you repeat that question?" If the assailant's attorney asks you something insulting or nasty, pause before you answer and look at your attorney (or the prosecutor) giving them time to object. If there is an objection and the judge agrees, you may not have to answer the question.

Sometimes your assailant's attorney will try to twist what you said or assign interpretations to it. For example: "You were furious at him, weren't you?" or "You wanted him to get in trouble and that's why you called the police, right?" Feel free to say, "That's not what I meant" or "That's not what I said".

The assailant's attorney may deliberately try to make you angry. If you can, try not to show it. If the assailant's attorney gets mad, and you don't, you will come across as the reasonable one.

Good luck and may justice prevail!



SECTION VI

THE POLICE RESPONSE

A. When can the police arrest an assailant without a warrant?

1. felony or misdemeanor committed in the officer's presence;
2. felony based on probable cause;
3. misdemeanor domestic assault, or aggravated domestic assault when there is probable cause to believe an assault took place and a domestic relationship exists (even if the officer did not witness the assault) (MCLA 764.15a);
4. violation of a personal protection order when there is reasonable cause to believe that the personal protection order has been violated {MCLA 750.15b};
5. violation of the provisions of a conditional release on bond based on reasonable cause (MCLA 764.15e AND MCLA 765.6b); and
6. violation of probation or parole based on reasonable cause (MCLA 764.15g).

When a misdemeanor domestic assault has occurred, a police officer DOES NOT have to witness the crime in order to make an arrest. In order to arrest for MOST misdemeanors, the police officer DOES have to witness the crime.

To arrest without witnessing the crime, the police officer must:

- establish reasonable cause that an assault has taken place, AND
- the victim and suspect must have one of the protected relationships (spouse, former spouse, living together, formerly living together, child in common).

The victim does NOT need a personal protection order for an arrest to take place if s/he has been assaulted.

Visible signs of injury are not necessary.

The victim doesn't have to be "willing to prosecute" for an arrest to take place. If they believe a domestic assault has occurred, the police will probably arrest the assailant even if the victim asks them not to do so.

Police may arrest without a warrant if you were dating the assailant. (If you are dating the assailant, but not living with him, you CAN get a domestic violence or anti-stalking personal protection order—see the section on stalking).

B. What if the police don't respond?

1. Call again, and ask to talk to a supervisor. Say "I am the victim of a domestic assault. I need protection. Please help me." Be persistent, but courteous. Tell them about any weapons present or injuries to you or your children.
All calls to 911 are recorded.
2. Call the Harbor House Crisis Line at 226-6611 Marquette County or 1-800-455-6611 in Alger County.
3. Call Prosecutor's Office: 225-8310.

C. What if the police don't arrest?

1. Ask them to help you get to a safe place.
2. Call the Women's Center Crisis Line at 226-6611 Marquette County or 1-800-455-6611 in Alger County.
3. Remember, if the police don't arrest right away, that does not mean that your assailant cannot be arrested or prosecuted later. Call Harbor House to discuss the particular circumstances of your case. We can advise you on how to proceed.

D. How to get the best police response?

- Try to remain as calm as you can.
- Don't shout at the police—it won't help.
- Ask to talk to one of the officers privately. Then you won't be interrupted by your assailant.
- Be as specific as you can in telling the officer what happened. Say "He grabbed me by the arm and threw me on the floor," rather than "He came at me and messed me up."
- Show them any injuries you may have. Show them any damaged property.
- Tell them about any witnesses.
- Tell them if there have been past assaults.
- Show them any "no-contact" or personal protection orders you have.
- Tell them if you have been sexually assaulted.
- Let them know about any injuries to the children.
- If your assailant has been using alcohol or other drugs, tell the police.
- If there is another warrant out for your husband or partner, let them know.



SECTION VII

IF HE IS ARRESTED, WHAT HAPPENS NEXT?

If your assailant is arrested, he will be taken into custody, taken to the police station, and booked. He will be held until the next court session, when he will be arraigned. After arraignment, he will be released. If arraignment is not held within 24 hours, he will be released on interim bond, after being held for 20 hours.

The longest he will be in jail for a misdemeanor assault and battery arrest is 20 hours, unless he can't post the bond set by the court.

The police should give you a "victim's rights" sheet. They should take a report. The victim's rights sheet should have the report number and the names and badge numbers of the police officers. Police procedures may be somewhat different depending on where you live.

We will also:

- listen and talk to you about what has happened
- give you information about domestic violence and Harbor House services
- help you make a safety plan
- help you decide what you want to do next
- give you information about the criminal justice system
- tell you how you can get a personal protection order
- talk to your children and do safety planning with them
- offer you shelter
- transport you to medical care
- talk to you about alcohol and other drugs
- discuss sexual assault
- make referrals
- tell you what your rights are, and what to expect from the legal system

We are available to help and accompany you throughout the court process. A Legal Advocate will call you following our visit to see how you are doing and to offer you support throughout the progression of the court case.

The jail should try to contact you when your assailant is released from jail. They should also contact Harbor House and we will try to contact you. You may want to call the jail and make sure that they have the best number to reach you at when your assailant is released. Your assailant will usually be released between 10 a.m. and 6:00 p.m. You can also call the jail to find out where and at what time your assailant will be arraigned. The jail can also give you a better idea about what time you should call back to find out if your assailant is being released, if there is a money bond that is keeping him in jail, and if the judge issued any conditions of bond which may prohibit your assailant from contacting you or coming home. The jail's phone number is **906-225-8345**.

The police officers will sign the complaint "based on information and belief." You do not have to sign the complaint. Once the police have made an arrest for

domestic assault, the decision to “press charges” is made by the Prosecutor. Your assailant may ask or tell you to “drop the charges”. Victims may not drop charges in this county—only the Prosecutor can do that.

The police will send *the incident report and complaint* to the Prosecutor for authorization. If the complaint is authorized, it will proceed.



SECTION VIII

MISDEMEANOR CRIMES—The Procedure

A. ARRAIGNMENT IN DISTRICT COURT

After the suspect/defendant/assailant has been arrested or charged, he is arraigned. If the defendant has been arrested for assault and battery, arraignment will almost always take place before the assailant is released. You do not need to be present (although you can be there if you want). You can call the jail to find out when and where your assailant will be arraigned. At arraignment, he is given notice of the charges against him, and advised of his constitutional rights. The conditions and amount of bail are determined, and a date is set for the pre-trial.

Domestic violence assailants are usually released on “personal recognizance,” which means that he’s let out of jail without putting up money to make sure he shows up. Depending on the severity of the crime, the judge may order the assailant to post bail to get out of jail.

At the arraignment (or later in the process), a no-contact order could be issued. The assailant could also be told not to return to your residence.

B. NO-CONTACT ORDERS

No-contact orders are conditions of bond OR probation. They can be issued in misdemeanor OR felony cases.

When there are conditions of BOND, they are issued by the judge/magistrate during the prosecution of a criminal case of domestic violence. Usually they are issued at arraignment, but they can also be issued at pre-trial or sentencing.

You may ask the judge for a no-contact order by calling his/her office OR by showing up in person OR a Harbor House advocate can ask the judge for you. Sometimes the police will put in their report that you requested no-contact, and sometimes the judge does it on his/her own.

No-contact orders can prohibit your assailant from contacting you in person, by phone, mail or through a third party or from coming to your home or work.

During the prosecution of the case, before sentencing, the no-contact order must be listed as a bond condition on the police computers. If the assailant violates the no-contact order, he can be arrested immediately. When the no-contact order is issued during the criminal trial, what it prohibits is entered on the police computer.

No-contact orders last only as long as the prosecution of the criminal case.

After the criminal case is over you must get a personal protection order if you want the provisions of the no contact order to continue.

The judge may also order no-contact as a condition of probation. If, after your assailant is convicted, he is put on probation, no-contact may be ordered. If he violates that order, he could go to jail.

The defendant can enter a plea of guilty, not guilty or nolo contendere (no contest), or stand mute. The defendant can request a court appointed defense attorney at the arraignment.

C. THE PRE-TRIAL

If not appointed at the arraignment, the Court will appoint an attorney to represent the defendant at the pretrial (unless the defendant has hired his own attorney).

If the suspect pleads not guilty, he may choose between a trial by jury or a trial by the judge (known as a bench trial). (In a bench trial, there is no jury and the judge makes the decision.) At the pre-trial, the court usually will set a date for trial and may hear motions to determine what types of evidence will be admitted. The prosecutor and defense attorney may discuss whether your assailant might plead guilty to the crime charged or to some other lesser offense. You may want to be present.

D. THE TRIAL

The prosecutor will try to prove that the defendant is guilty of committing the crime, beyond a reasonable doubt. The prosecutor (or city attorney in some jurisdictions) must call witnesses. The defendant is not required to call witnesses, nor is he required to testify. You need to be present, and you may need to testify. If the defendant is found guilty, the judge will set a date for sentencing.

E. SENTENCING

After the suspect is convicted and before the judge sentences him, the Probation Department may make a pre-sentence investigation report. As part of the pre-sentence investigation, the probation officer may contact you and ask for your opinion. You can talk to probation by telephone, in person, or submit a letter with your feelings about the incident and an appropriate sentence. At sentencing, the judge will have considered the probation department's report, and their recommendation. The judge may order the defendant to do community service or to enter counseling, and has the option of ordering the defendant to make restitution to the victim. If the defendant is put on probation, it means that he will not go to jail as long as he meets the conditions of the probation. If the defendant violates the conditions of the probation, he could be sent to jail. No-contact could be part of his conditions of probation. This is similar to a no-contact order issued during a criminal trial, but when it is entered into L.E.I.N. it will not have details about the bond conditions on L.E.I.N.

F. APPEAL

After he is convicted, the assailant has the right to appeal to the Circuit Court. If your partner has been arrested or charged with a FELONY Crime, here is what will happen:



SECTION IX

FELONY CRIMES—The Procedure

A. ARRAIGNMENT IN DISTRICT COURT

After the suspect/defendant/assailant has been arrested or charged, he is arraigned. Most often, arraignment will take place before the assailant is released. You do not need to be present. At arraignment, he is given notice of the charges against him, and advised of his constitutional rights. The conditions and amount of bail are determined, and a date is set for the preliminary examination within 14 days of arraignment. If you are being harassed by your assailant, the prosecutor can ask the judge to revoke his bail. The judge may issue a no-contact order (see above under misdemeanor arraignments).

Within seven days of the arraignment, but not less than 24 hours before the preliminary examination, the prosecutor must give you: a) a statement of the procedural steps in the trial, b) information about the crime victim's compensation act, c) suggested procedures if you are subjected to threats, and d) a person to contact for further information.

Upon your request, the prosecutor must: give you notice of any court proceedings and schedule changes; consult with you regarding the disposition of the crime (this can include dismissal, plea or sentence negotiations, or pre-trial diversion programs); and confer with you prior to a plea. If you are afraid that your assailant may use further violence against you, the prosecutor may ask the court to protect you from disclosing your address, place of employment or other personal identification.

You should receive a form from the Marquette County Prosecutor's office that you must send back in order to get these rights. You need to keep the Prosecutor's office informed of your address and telephone numbers.

B. PRELIMINARY EXAMINATION IN DISTRICT COURT

This is a hearing before the judge. The prosecutor presents witnesses to convince the District Court judge that a crime was in fact committed and there is probable cause to believe that the defendant has committed that crime. The defendant is represented by an attorney who can cross-examine the witnesses and present evidence. If probable cause is established, the defendant is sent ("bound over") to Circuit Court for trial. A defendant can decide not to have a preliminary examination. If the judge finds that there is probable cause, then the case goes to the Civil/Criminal Division of the Circuit Court. You will be subpoenaed and may have to testify at this hearing.

C. ARRAIGNMENT IN THE CIVIL/CRIMINAL DIVISION OF THE CIRCUIT COURT

After the case is sent to Circuit Court, the defendant is again arraigned.

The court may hear motions to determine whether evidence will be admitted or whether there is some legal reason why the defendant should not be tried. The prosecutor and defense attorney may decide whether the defendant will plead guilty to the crime charged or some other lesser offense. You do not need to be present.

If you request, you have the right to consult with the Prosecuting Attorney prior to the trial.

E. THE TRIAL

The prosecutor will try to prove that the defendant committed the crime—that he is guilty beyond a reasonable doubt. The prosecutor must call all the witnesses needed to prove guilt. The defendant is not required to call witnesses. You need to be present, and you may need to testify. If the defendant is found guilty, the judge will set a date for sentencing.

You have the right to be present throughout the trial, unless you are going to be a witness. If you are a witness, you will be kept out of the courtroom until you testify.

F. SENTENCING

After the suspect is convicted and before the judge sentences him, the Probation Department makes a pre-sentence investigation report. As part of the pre-sentence investigation, the probation officer may contact you and ask for your opinion. At sentencing, the judge will have considered the probation department's report, and their recommendation.

The judge may order the defendant to do community service or to enter counseling, and has the option of ordering the defendant to make restitution to the victim. If the defendant is put on probation, it means that he will probably not go to jail as long as he meets the conditions of the probation. If the defendant violates the conditions of the probation, he could be sent to jail.

If you request it, the Prosecutor must let you know:

- what crimes the assailant was convicted of,
- about your right to make a written or oral statement for use in the pre-sentence investigation. It can include the nature and extent of any physical, psychological, or emotional harm you've suffered,
- the extent of any economic loss or property damage you have suffered, your opinion of the need for restitution, and your recommendation for an appropriate sentence. This statement will be available to your assailant unless the court orders otherwise.
- the address and telephone number of the probation office which is preparing the pre-sentence investigation report.
- the time and place of the sentencing.
- your right to make a statement at the defendant's sentencing.

G. APPEAL

After he is convicted, the assailant has the right to appeal to the Michigan Court of Appeals. Upon your request, the Prosecutor will notify you of the following:

- notice that the assailant has filed an appeal
- a brief explanation in plain English of the appeal process
- whether the assailant is out on bail
- the time and place of any appeal court proceedings
- the result of the appeal



SECTION X

CIVIL REMEDIES

A. DIVORCE

You have to be living in Michigan for six months before you can file for divorce, and you must be living in the County you are filing in for ten days. You don't have to be living apart from your spouse to file.

If you are married and have children with your spouse, you must file first for divorce before you can file for custody.

B. NO-FAULT

You don't have to prove adultery or cruelty to get a divorce in Michigan. You only have to show that your marriage has broken down [MCLA 552.6, MSA 25.86]. You can get a divorce if your husband doesn't want one. The judge can look at fault when deciding how the property will be divided, and whether a spouse is entitled to alimony.

The spouse who files first is called the plaintiff. The other spouse is called the defendant. Divorces are filed in the Family Division of Circuit Court.

After the complaint is filed and before the divorce is final, court orders for temporary custody, visitation, child support, and alimony can be requested.

A divorce becomes final when the court enters a judgment of divorce after the two parties settle the case with the help of their attorneys. The judgment contains information about who gets property, who has custody, and issues about visitation and custody of the children. A divorce may be granted in 60 days if there are no minor children. When there are minor children, the waiting period is extended to 180 days.

Divorce kits? There is something called a "do it yourself divorce kit." They can only be used when the parties come to total agreement about everything. They cannot be used in cases of domestic violence.

Finding an attorney: A good lawyer who knows about domestic assault is essential if you are going to file for divorce. Call the Harbor House crisis line at **226-6611 Marquette County** or **1-800-455-6611 in Alger County** for a referral to attorneys.

C. SEPARATE MAINTENANCE

Separate maintenance allows the parties to live apart, legally separated and free from the responsibilities of marriage, but still be technically married. A separate maintenance action may provide for the support of a spouse who requires it [MCLA 552.7, MSA 25.87].

Separate maintenance is available only if both parties are willing to accept it. If the defendant in a separate maintenance action files a counterclaim for divorce, the court can grant a divorce, but not separate maintenance.

There is no such thing as “legal separation” in Michigan.

D. CUSTODY

A custody order specifies with whom your child(ren) will live. Custody and visitation are two different things. The judge can give custody to one parent (sole custody) or to both parents (joint custody). Until there is a court order, both parents have equal rights to the custody of their child. Either parent may file a motion to obtain custody.

Personal Protection Orders can grant the petitioner “temporary possession” of the children. Read the section on Personal Protection Orders for more information.

The Friend of the Court is the arm of the Family Division of the Circuit Court that conducts investigations and makes recommendations to the court regarding child custody, visitation, support, alimony and property. It also enforces the court’s orders relating to child support, alimony, custody, and visitation.

1. MARRIED WOMEN

A married woman can request temporary custody when she files for divorce if the children are hers, and are in her possession. The judge can grant such an order “ex-parte” (without a hearing or notice to the other party).

The parent who files first and is in possession of the children usually gets temporary custody. When the parent who does not get temporary custody is served with the papers, s/he has ten days in which to request a hearing about the custody.

If custody is disputed, you should make an appointment to see the Friend of the Court as soon as you get temporary custody. They will make a recommendation about who gets permanent custody.

2. UNMARRIED WOMEN

If there is no acknowledged paternity (he is not on the birth certificate), the mother has legal custody.

However, the father may initiate custody proceedings. You should consult an attorney and consider getting a custody order to prevent him from doing so first.

If the man is legally the father, you cannot get automatic permanent custody. You should ask your attorney to file for an “ex-parte” custody order.

We do not recommend “joint custody” when there has been domestic violence. It requires cooperation and agreement between the two parents. Joint custody will

increase the danger of continuing abuse and harassment by your partner.

E. VISITATION

The Friend of the Court makes recommendations about what *they believe* is “reasonable visitation.” The law assumes that it is in the best interest of the child to have strong relationships with both parents, unless it is shown by “clear and convincing evidence” that visitation would endanger the child’s physical, mental or emotional health.

The court has the power to restrict visitation by: requiring that the visits occur in the presence of a third party or agency; requiring that a party post a bond to assure compliance with the visitation order; and any other reasonable conditions determined to be appropriate in the particular case.

Supervised visitation might be ordered if it is shown (through police reports, hospital records, Harbor House testimony) that your life is in danger or the children are in danger. The Friend of the Court might recommend third party visitation at another location.

They are more likely to recommend third party or supervised visitations if there is evidence that the father has abused or neglected the children.

F. CRIME VICTIMS’ COMPENSATION

Victims of crime who suffer personal physical injury may be eligible for compensation from the Crime Victims Compensation Board. Assistance may include compensation for certain kinds of out-of-pocket losses, loss of earnings and/or loss of support. You can get a claim form from the Prosecuting Attorney’s office or from Harbor House.

You must file within a year of the crime. The crime must be reported to the police within 48 hours, unless the Board finds that there was good cause for the delay. To recover an out of pocket loss, you must show a loss of at least \$200 in medical expenses.

A person requesting compensation cannot be criminally responsible for the crime and cannot be an accomplice. You must be willing to cooperate with law enforcement agencies in the investigation of the crime and with the courts in the prosecution. You cannot recover losses for personal property or pain and suffering.

If you have lived with your assailant, you cannot receive loss of earnings, or loss of support, and any out of pocket loss must be paid by the Board directly to each medical care provider.

G. COURT-ORDERED RESTITUTION

The court may order financial restitution paid to you for pain and suffering, loss of work time, medical costs, property damage, etc. One of the difficulties here is getting the assailant to pay after the court has ordered it.

H. CIVIL SUITS

Civil Suits for Damages Caused by Stalker

[MCLA 600.2954(1)]

If you are a victim of stalking, there is a special law which allows you to sue the stalker for the damages caused by the stalking, and allows you to recover: actual costs (e.g. property damage, lost wages, medical/therapy costs, etc.); general and special damages (physical and/or emotional pain and suffering); exemplary damages; court costs; and reasonable attorney fees. A lawsuit may be brought regardless of whether or not the stalker has been charged or convicted in a criminal case.

Victims of assaults covered by domestic violence personal protection orders also may have a civil claim for damages under common law theories of assault and battering, tortious infliction of emotional distress, or other theories. Recoverable damages, however, would not include attorney fees, since those are only allowed if provided for by statute.

I. PERSONAL PROTECTION ORDERS (PPOs)

[MCLA 600.2950, 600.295A, 764.15B]

Personal protection orders are **civil** orders. PPOs were formerly known as restraining orders, injunctions, or domestic assault restraining orders. In Marquette County, they are handled by the Circuit/Family Court. Usually one judge, (not necessarily from the Family Division, but specially assigned there for this purpose) handles PPOs.

Personal protection orders may be granted by the court whenever there is an immediate danger that you have been or are likely to be physically hurt by your intimate partner. (See below for definition of intimate partner).

They were created to protect you from things that your assailant does that may not be crimes, but may be part of the battering (such as calling you every hour or showing up where you work). *Depending on the facts in your situation, the PPO can also give you temporary possession of any minor children you have with your intimate partner. In certain circumstances, it could order the partner to move out of your home.* These things can be put into a PPO, and the court can tell your assailant he can't do them. If he violates that order of the court (the PPO), then he could be arrested and sentenced to jail.

The first step to get a PPO is to fill out a request. This request is called a Petition. There are preprinted forms that you fill out to explain to the judge why you need a PPO (forms are provided by the Prosecuting Attorney's Office). The best way to do that is to write down the history of what has happened with your partner. The Petition must be filed in the Family Division of the Circuit Court at 234 West Baraga Avenue, Marquette, MI. A staff person at the Court takes the petition to the judge.

HOW TO FILE FOR A PPO

To file for a P.P.O., call the Harbor House at 226-6611 in Marquette County

or 1-800-455-6611 Alger County.

The Harbor House will provide you with an advocate who can help you fill out and file the petition.

Remember, the Women's Center Legal Advocates are not attorneys, cannot give you legal advice, and cannot represent you in court.

If you don't want to or can't wait for Harbor House to assist you, you can fill out these forms yourself at the Prosecutor's Office with the assistance of a staff person. You can get a set of the PPO forms from Harbor House, or the Prosecutor's Office.

We think that it's easier *when* you get help from the Harbor House to fill out a PPO, but of course it's up to you.

A Harbor House Advocate will talk with you more about this in detail. If you decide to seek a PPO, it usually takes one to two hours to do the paper work and another one to two hours to go to court.

When you call the Harbor House for a PPO, you will be asked a number of questions about your situation. This is to help you figure out options and help you be safe.

MORE INFORMATION ABOUT PPOs

There are **two** types of personal protection orders:

- 1) **domestic violence personal protection orders** (also known as domestic relationship personal protection orders) (MCLA 600.2950) which **require a domestic relationship**, and
- 2) **anti-stalking personal protection orders** (also known as non-domestic relationship stalking personal protection orders) (MCLA 600.2950a) which do not require a domestic relationship, but do require a **pattern of unconsented contact**.

To get a domestic violence PPO, you must show the court that there is a domestic relationship AND reasonable cause to believe your partner has done one or more of the acts that you list in the PPO.

To get an anti-stalking PPO, you must show to the court that an individual has committed two or more of the acts you list and is likely to continue.

The request to the court must state specific incidents of assaults and/or threats, and may describe injuries and list witnesses. *Criminal convictions or police reports are not required to get personal protection orders*. However, if you do have a police report (or the number of the police report), or a hospital report, it is helpful to include it.

GETTING AN ATTORNEY

You do not need an attorney to go to court to get a PPO. However, **the forms are difficult to navigate**. Most people need some help to fill them out. See previous section for more information.

After being served, **the assailant has the right to object to the personal protection order**, and request a hearing. If your assailant asks for a hearing on the PPO, and you don't already have an attorney we recommend that you get one.

There is **no state filing fee** for obtaining a personal protection order.

The judge decides whether to issue a personal protection order. If the judge does not, s/he must immediately state in writing and on the record the reasons why.

You may keep your address confidential, but must give the court some address where you can receive mail (e.g. notice of any court hearings).

The order goes into effect immediately after the judge signs it. However, police may not arrest your assailant when the order is violated, **unless** there is proof that the order has been **served** on the assailant. When the police come, they can If there is a violation before service has been made, the (i.e. leave the premises) the police can arrest. The police can also serve the assailant with the PPO at that time.

IF THE PPO HAS NOT BEEN SERVED

If the PPO has been signed, but not served, and the police are called because your assailant has violated the order, the police should give oral notice to your assailant and serve him with the ppo (if he has not left). If he continues to violate the order after being notified by the police, the police could then arrest him.

PPO SERVICE

Service can be by a process server or by any adult who is not a party or a witness to the dispute. The Sheriff's Department performs this service free of charge. It may be by registered mail, but the signed receipt is needed to demonstrate valid service of the order (i.e. that the assailant received a copy of the order). If you need help with service, please call us at Harbor House.

“NULLIFYING” A PPO?

You cannot “invalidate” or “nullify” a personal protection order by “violating it” (i.e. by inviting the assailant over). The personal protection order is a court order restraining the assailant, not you, from certain behaviors. However, too many police are confused about this issue and may not arrest if they believe you invited the assailant into your house.

MODIFYING OR CANCELLING THE ORDER

If you decide that you want to modify the personal protection order or cancel it, you will need to petition the court. The judge will ask you if you are being pressured or intimidated into modifying or canceling the order.

POLICE ENFORCEMENT OF THE ORDER/POTENTIAL PENALTIES

If there is service, police may arrest without a warrant when there is probable cause to believe an assailant has violated the personal protection order and they can easily find the assailant

If the police make an arrest, a hearing is held.

If the police do not arrest, you must request a hearing, and seek to hold the assailant in contempt of court, by contacting the court and filing a petition for

a show cause hearing.

If the assailant is found by the judge to have violated the order of the court, the assailant could be sentenced to up to 93 days in jail and may receive a \$500 fine or both.

RELATIONSHIP NECESSARY FOR A DOMESTIC VIOLENCE PPO

You must be in one of the following relationships to obtain a domestic violence personal protection order:

- married; or formerly married;
- living together; or formerly living together;
- have a child in common; (7/1/94)
- dating relationship; or former dating relationship. (4/1/95)

Notice that this is slightly different than the relationships needed for warrantless arrest.

HOW IS DATING DEFINED? WHAT ABOUT LESBIANS AND GAY MEN?

“Dating relationship” is defined legally as frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

High school students, lesbian, and gay male couples who have not lived together CAN get a domestic violence personal protection order because of the dating violence provision being added to the law.

Domestic violence personal protection orders and anti-stalking personal protection orders can be confusing because they are civil orders of the court but may be enforced by arrest and criminal contempt penalties.

WHAT CAN BE INCLUDED IN DOMESTIC VIOLENCE PPOS?

Domestic violence personal protection orders can order your assailant not to:

- enter your premises;
- assault, attack, beat, molest or wound you; (but, attacks, beatings, and wounds are crimes for which you don’t need a PPO for the police to arrest);
- threaten to kill or physically hurt you;
- remove your minor children if you have legal custody, except if there’s a custody or visitation order issued by a court of competent jurisdiction;
- purchase or possess firearms;
- interfere with your efforts to remove your children or personal property from premises that you solely own or lease;
- interfere with you at work or doing things that hurt your employment relationship or environment;
- do any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence including stalking.

CHILDREN'S SCHOOL AND MEDICAL RECORDS

The law allows a non-custodial parent to have access to a child's records, including school and medical records. If you are the custodial parent, and you are hiding, you could get a personal protection order to prohibit the record-keeper from releasing your address, phone number and employment information. If you do, a copy of the PPO will have to be served on each record-keeper.

WHAT CAN ANTI-STALKING PROVISIONS INCLUDE?

Anti-stalking personal protection orders **can** be obtained when the stalker does not have a domestic relationship (as defined above) with the victim. When you are being battered i.e. you do have a domestic relationship with your assailant, you may want anti-stalking provisions added to your domestic violence personal protection order. (MCLA 600.2950a)

These provisions can order the assailant to stop:

- following you or appearing within your sight;
- approaching or confronting you in a public place or on private property;
- appearing at your home, work or school or a shelter (if you are staying in one);
- entering onto or remaining on property you own, lease, or occupy;
- contacting you by telephone, mail or electronic mail;
- placing an object on or delivering an object to property you own, lease, or occupy.

INCREASING EFFECTIVENESS OF A PERSONAL PROTECTION ORDER

To maximize the effectiveness of a personal protection order, it is important for you to do the following:

- Carry a copy of the order with you (along with a proof of service) whenever possible. This is not required for enforcement, but is a good idea, and it helps get the order enforced.
- If the assailant violates the order but has not been served, and you call the police, the police can serve him if you have a copy.
- Verify (or have your attorney verify) that the order and proof of service is on L.E.I.N.
- Let your employer, school, and friends know about the PPO and ask them to call the police if your assailant shows up.

WHAT TO DO IF HE VIOLATES IT?

Call the police. The police **should** arrest if there is probable cause to believe the personal protection order has been violated **and** the order has been **served**. The police may not be **ABLE** to arrest him if he has left the scene and cannot be found in a reasonable period of time.

WHAT TO DO IF YOU HAVE A PERSONAL PROTECTION ORDER, HE VIOLATES IT, AND THE POLICE DON'T ARREST HIM?

- Call the police station and ask to speak to the supervisor or command officer. Explain the situation politely but firmly. If you do not get a helpful response, ask to talk to the next person up.
- Call the Harbor House at 226-6611 Marquette County or 1-800-455-6611 in Alger County, and tell us what has happened. We may be able to help you explain the situation to the police.
- Call your attorney (as soon as you can).
- Call Prosecutor's Office.

MOVING FROM PLACE TO PLACE WITH A PPO (FULL FAITH AND CREDIT)

Unfortunately, the enforcement of protection orders varies from place to place. Police in Marquette County are more likely to enforce protection orders than most other counties in Michigan. Enforcement can be spotty even within police agencies.

Police officers are less likely to enforce if they think you have initiated contact with your assailant. *Some police do not know that in Michigan they are allowed to arrest on the scene for violation of a personal protection order. [MCL 764.15b; MSA 28.874(2)]*

This section is designed to give you concrete information about the laws on protection orders issued in one place that need to be enforced in other places.

It is usually easier to get a protection order enforced in the place that it was issued than in other places. If you are moving, visiting, working in a different community or going on vacation, you will need to think about personal protection order issues.

Always carry a true copy of your PPO and proof of service with you. In Marquette County, a true copy has a stamp saying "true copy" and a signature on it.

Personal protection orders can usually be enforced across state, tribal and territorial lines. The federal law called the Violence Against Women Act (1994) has a provision called "Full Faith and Credit". It states that a valid personal protection order can be enforced in all 50 states, Indian tribal lands, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, American Samoa, the Northern Mariana Islands and Guam. (Note! A valid order of protection issued by a tribe must be recognized by state courts. However, tribes are sovereign nations and they may or may not recognize protection orders from other tribes or states)

Each jurisdiction has different laws, practices, levels of awareness of full faith and credit, methods of enforcement, and requirements for you to follow. If you are moving to another place, or if you live in one place and work in another, or if you are visiting, you probably want to consult with advocates in both places about your personal protection order.

Law enforcement officers are required to enforce protection orders from other

places the same way that they enforce orders from their own communities. Law enforcement will try to verify that your protection order is valid within Michigan by consulting the L.E.I.N. (Law Enforcement Information Network). Also they may check a national registry. You may want to register your protection order with the national registry. The national registry is not used by everyone in the same way and is not foolproof.

You and your advocate can get help with “full faith and credit issues” by calling the **Full Faith and Credit Project at 1-800-256-5883 and/or the Battered Women’s Justice Project at 1-800-903-0111 extension 2.**

Note that federal full faith and credit law under the Violence Against Women Act does not automatically protect your children, even if they are listed in the protection order.



SECTION XI

FEDERAL LAWS

There are a number of federal laws that relate to domestic violence.

Interstate Travel to Commit Domestic Violence: 18 U.S.C. 2261

It is a federal crime for a person to travel interstate, or leave or enter Indian country with the intent to injure, harass or intimidate an intimate partner when in the course of or as a result of the travel the abuser commits a violent crime that causes bodily injury.

It is a federal crime to cause an intimate partner to cross state lines, or leave or enter Indian country by force, coercion duress or fraud if the abuser intentionally inflicts bodily injury on the partner during or as a result of the conduct.

Interstate Stalking: 18 U.S.C. 2261A (this law does not apply to Indian tribes)

It is a federal crime to cross a state line with the intent to injure or harass any person if, during the course of or as a result of the travel, the defendant places the person or a member of the person’s family in reasonable fear of death or serious bodily injury.

FIREARMS

Federal law prohibits an abuser subject to a qualifying order of protection from possessing firearms and ammunition.

18 U.S.C. 922(g)(8). Abusers are not permanently banned from possessing guns only for the time that the order of protection is in existence. Additionally there are “official” use exemptions which allow law enforcement and military personnel to possess their service weapon during their working hours.

18 U.S.C. 922(g)(9) prohibits gun possession by anyone who has been convicted of a qualifying misdemeanor crime of domestic violence. The gun ban is permanent which means that if a person has been convicted, he/she can never legally possess a gun again. There is no “official use” exemption and the statute is retroactive.



SECTION XII

STATE LAWS IN MICHIGAN

Due to space problems, all laws related to domestic violence cannot be included in this handbook. An excellent summary of select Michigan sexual assault and domestic violence statutes can be obtained from the Michigan Resource Center on Domestic and Sexual Violence, a project of The Michigan Coalition Against Domestic and Sexual Violence, 517-347-1377. You can find them on line at <http://www.mcadsv.org/mrcdsv/law/legal.html>.

In addition, the Michigan bench book on domestic violence, written to give guidance to judges is online. It has a very complete description of state laws. The url is: <http://www.supremecourt.state.mi.us/courts/mji/dvbench.htm>.

MARQUETTE COUNTY CIRCUIT COURTS:

25th Circuit

Thomas L. Solka Chief Judge Pro Tem,(906)-225-8205

John R. Weber, Chief Judge(906)-225-8217

Fax:(906)-225-8215

Courthouse: 234 W. Baraga Avenue, Marquette, MI 49855

Administrative Aide: Judge Solka(906)-225-8205

Administrative Aide: Judge Weber(906)-225-8217

Court Clerk: David J. Roberts(906)-225-8330

Friend of the Court: Carolyn L. Hanson(906)-225-8262

Probation Department(906)-225-8224

MARQUETTE COUNTY DISTRICT COURTS:

District 96

James M. Collins, Chief Judge

Dennis H. Girard, Chief Judge Pro Tem

Courthouse, 234 W. Baraga

Marquette, MI 49855(906)-225-8235

Fax:(906)-225-8255

Mag/Ct. Admn., Jennifer Bennon

Mag: Cynthia Cope

Assignment Clerk(906)-225-8234

Probation(906)-225-8250

Court also held at:

308 Cleveland Avenue, Suite 201, Ishpeming, MI 49849 . . .(906)-485-5579

Mag: Sharon Burns

Fax:(906)-485-4725

Probation(906)-485-5794

ALGER COUNTY CIRCUIT COURTS:

11th Circuit

Charles H. Stark, Chief Judge (906)-341-3655
Home Office: P.O. Box 186, Manistique, Mi 49854

Court held at:

Alger County, County Building, Munising, MI 49862

Assignment Clerk(906)-341-3655
Court Clerk/Circuit Court Records(906)-387-2076
Friend of the Court(906)-387-4636
Probation Department(906)-387-4921

ALGER COUNTY DISTRICT COURTS:

District 93

Bruce E. Plackowski, Chief Judge

County Building, 101 Court Street, Munising, MI 49862 ... (906)-387-2941
Mag/Clerk/Admin: Lynne A. Maki(906)-387-3879

Court also held at:

County Courthouse, Manistique, MI 49854(906)-341-3631
Mag/Clerk/Admin: Belinda Cole

**LAW ENFORCEMENT AGENCY ADDRESSES:
MARQUETTE COUNTY**

Chocolay Township Fire Department (906)-249-4040
5010 U.S. 41 South
Marquette, MI 49855

Forsyth Township Police (906)-346-9224
P.O Box 1325
Gwinn, MI 49841

Ishpeming City Police Department (906)-486-4416
308 Cleveland Avenue
Ishpeming, MI 49849

Ishpeming Township Police Department (906)-485-1888
1575 U.S. 41 West
Ishpeming, MI 49849

Keweenaw Bay Tribal Police (906)-249-0901

Marquette City Police Department (906)-228-0400
300 W. Baraga Street
Marquette, MI 49855

Marquette County Prosecutor's Office (906)-225-8315
234 West Baraga Street
Marquette, MI 49855

Marquette County Sheriff's Department (906)-225-8435
236 W. Baraga Street
Marquette, MI 49855

Michigan State Police (906)-475-9922
U.S. 41 West,
Negaunee, MI 49866

Northern Michigan University
Attn: Public Safety (906)-227-2151
1401 Presque Isle Avenue
Marquette, MI 49855

Negaunee City Police Department (906)-475-4154
100 Silver Street
Negaunee, MI 49866

Republic Township Police Department(906)-376-8800
118 West Kloman Avenue
Republic, MI 49879

Richmond Township Police Department(906)-475-6556
510 Nicholas Avenue
Palmer, MI 49871

ALGER COUNTY

Alger County Prosecutor(906)-387-2117
101 Court Street
Munising, MI 49862

Alger County Sheriff's Department(906)-387-4444
Corner Park and Varnum
Munising, MI 49862

Munising City Police Department(906)-387-2275
100 West Munising Avenue
Munising, MI 49862

Michigan State Police(906)-387-4551

ALCOHOL AND OTHER DRUG HELP:

Great Lakes Recovery(906)-228-7611

Youth(906)-228-4692

Alcoholics Anonymous Hotline(906)-249-4430

National AA Hotline(906)-222-0828

SUPPORT GROUPS

For all women who are or have been in an abusive relationship

All groups are free and confidential.
For further information
call Harbor House at 226-6611

Harbor House Affirmation

I celebrate my courage in coming here.
I was alone, but now I am not alone.
I was victimized but I am no longer a victim.
I name the violence in my life—and declare it wrong.
I name that I need help, and that I am willing to give help.
Nothing I do provokes the violence.
Nothing about me causes the violence.
Nothing gives one person the right to abuse another person.
Abusers can change themselves, but I cannot change them.
Nothing I can do will change my past.
Everything I do changes my future.
I have protected myself and my children.
Resistance to violence, defending myself OR my children is not abuse.
I believe myself; I believe my sisters.
I can ask support; I can give support.
I can change myself; I can change the world.
My being here helps others.
I am not here to judge my sisters, but to support their healing.
I will take the risk to trust other women here.
I affirm the privacy and confidentiality of every woman in this group.
Every time a sister resists, she creates a space for resistance around her.
I am here in solidarity with my sisters of all persuasions, all colors, all orientations, and all faiths to say NO to violence.
We will not be divided by our diversity —we will be strengthened by it.
In the words of Alice Walker “I am the woman offering two flowers whose roots are twin.
Justice and Hope. Let us begin.”

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Vickie Frederick-Toure and Susan McGee.

Feel free to distribute if no changes are made, and credit is given.

