

ALABAMA DEPARTMENT OF CORRECTIONS

2377 SHESB SB 528 - SB 542 (FILE 1) 2377

The press reported that Burrows, who prosecuted her, said she killed her husband under extreme stress and provocation because of Roland's sexual perversions and domination of her. She shot Roland in March, 1980. She then dismembered his body; boiled the hands, feet and head in a pressure cooker, and cremated his remains in their barbecue pit. She testified that her husband told her that when he died he wanted to be cremated. Other witnesses said that she did anything to please him, including abnormal sex acts.

Burrows told the Clearing House that Juanita had been "very subservient to a dominate male; she makes Edith Bunker look like Susan B. Anthony."

Juanita's adult son found his father's remains in the barbecue pit and buried them in the garden. Five months later, the son showed the authorities where the grave was located.

"(Juanita) is the last desperate defense against homicidal rage."

Juanita pleaded no contest to first degree manslaughter after a murder charge against her was dismissed. Judge Larry Cushing sentenced her on January 12, 1981, up to ten years at the Oregon Women's Correctional Center in Salem. He said that the psychiatric facilities there were excellent, and that her stay there would be "the best thing" for her. Juanita has not yet had a hearing before the parole board, but Burrows guessed she would be in prison for three years. (Our sources are District Attorney Bub Burrows, the court reporter and employees at the Women's Correctional Center who were phoned on March 23, 1981; and the Associated Press article as printed in the Berkeley Gazette on January 16, 1981.)

Frances Conyers

Frances Conyers was a 53-year-old mother of a married son when she shot her husband of 32 years, Byron, 52, in September, 1978. Frances, who is white and from Boone, Iowa, was often sexually, physically and verbally abused by her husband after his drinking bouts.

On the night of the killing, Byron repeatedly sexually abused Frances. She finally managed to escape, and she shot him before he could get out of bed to get her again.

Frances told the Clearinghouse that the county attorney was "vindictive," plus the chief of police knew Byron. She was charged with first degree murder, but she said, "To me it was self-defense. He carried his weapon, his fists, all the time." She said she refused to plea bargain for second degree murder because she "never did feel guilty. So I'm doing time."

Frances said that Byron was totally different when he was drinking, and his drinking grew worse as years went by. She kept thinking that "things will be better, and it won't happen again," and anyway it was a woman's place to accept the bad with the good and there were good times. But that night, she finally blew up and fought back. She said, "I've never been in a speck of trouble

before. "It's all a waste (the abuse that led up to the shooting, the shooting and her years in jail), and I miss the poor old guy too." Frances was sentenced to 10 years for voluntary manslaughter in July, 1979. She is now in the Iowa State Women's Reformatory at Rockwell City, and won't be eligible for parole until May 4, 1982. (Our sources are Frances Conyers, her attorney and Beth Bochnak, from the Center for Constitutional Rights, an organization which helps defend women who fight back. They were all phoned in March, 1981.)

Jennifer Patri

Jennifer Patri was a 32-year-old mother of two when she killed her husband, Robert. Jennifer, who is white and from Weyauwega, Wisconsin, is currently under a 10-year sentence for manslaughter. Her attorney, Al Eisenberg, said the killing was a result of "13 years of emotional, psychological and physical brutality." Eisenberg said that Jennifer was also a victim of sexual abuse, but she was too embarrassed to give the details in the courtroom. According to Eisenberg, Jennifer's husband also sexually abused their 12-year-old daughter and a niece, and maybe some boys.

"... men often say women want to be beaten as foreplay!"

In March, 1977, Robert threatened to assault Jennifer and kidnap their children. Eisenberg told the Clearinghouse that Robert brandished a knife and chased her to the basement. Then he pretended to leave but returned, so Jennifer shot him with a shotgun. The next day she buried his body and set fire to her house in an attempt to commit suicide.

Jennifer was charged with first degree murder and arson, but was only found guilty of manslaughter. In February, 1978, the judge (who Eisenberg said "was a sexist pig") gave Jennifer the maximum sentence for manslaughter, even though Jennifer had no previous record and had even been a Sunday school teacher and P.T.A. president.

Jennifer is attending a school during the day and spending her nights in jail, but may be on parole by the time this article is read. (Our sources are her attorney Al Eisenberg, who was phoned in March and April, 1981, and Time from November 28, 1977.)

Gloria Timmons

Gloria Timmons, a Black woman from Seattle, Washington, spent four years in prison for the manslaughter of her husband, Ronald, before she was released on parole. She was 21 in January, 1973, when she shot Ronald, who had raped and beaten her during the year they were married. Amazingly, he worked as a CSO officer (someone who brings witnesses to court) for the police department, but when details of his battering his wife became known, he resigned.

Occasionally, his treatment of her sent her to the hospital - once for burns after he threw scalding water in her face, and once for injuries after he threw her down a flight of stairs.

Gloria reported him, and Ronald retaliated by striking her in front of witnesses while she was in the hospital emergency waiting room for injuries he had inflicted.

The district attorney charged Ronald with misdemeanor assault for this inci-

"To me it was self defense. He carried a weapon, his fists, all the time."

dent.

Ronald was released prior to the trial and asked her for a reconciliation. According to public records, she said that when she met him, he tried to strangle her, but two friends freed her. One accompanied Gloria to a bar to calm down. Gloria's friend left but gave Gloria a gun for protection. Ronald showed up at the bar and threatened Gloria. Gloria told him she had a weapon and would use it if he tried to hit her. He was about to hit her when she shot him.

Gloria pleaded guilty to manslaughter on April 11, 1973, to avoid being tried for murder. Since she used a firearm, she faced mandatory imprisonment and was sentenced to a 20 years maximum sentence on May 9, 1973. Gloria escaped twice from prison and was released on parole on August 31, 1979, after four years of incarceration. (Our sources are the Feminist Alliance Against Rape News, as printed in the *Center Against Sexual Assault Newsletter* of December, 1977; and the public defender's records, and the district attorney's office - both called in March, 1980)

Cynthia Denny

Cynthia Denny pleaded guilty to voluntary manslaughter of her husband, Gary Denny, 36, a softball pitcher who was well-known in their hometown of Prescott, Arizona. Cynthia, who was 28 when she shot her husband, was abused about three times a month. Her attorney, Tony Shaw, told the Clearinghouse that the abuse included beatings and sodomy.

Shaw said that on September 28, 1974, Gary and Cynthia were returning from an argument at a bar. Gary had that look in his eye that warned Cynthia that a beating would soon follow. He left for a little while, so she got a shotgun and tried to commit suicide with it, but he returned before she was successful. She intended to scare him off with a shot, but the bullet hit Gary in the chest. She took off, and he grabbed at her as she left. She returned when she realized he wasn't following her and found that he was hurt more than she had supposed. Cynthia became hysterical, called the police and was rocking Gary's head when the police arrived.

A change of venue was granted because of pretrial publicity. She was tried for murder and found guilty of voluntary manslaughter. The conviction was reversed because she had renounced to the shooting after she had been reassured that Gary would survive. She was



tried in another city and convicted of involuntary manslaughter because the jury could not understand why she hadn't left her husband long ago. This conviction was also reversed because of a technicality.

Shaw thought the next retrial would be a "sure winner" because he planned to show through expert testimony exactly why she had remained with her husband. Instead, Cynthia opted to plea bargain so that she would not have to spend any more time in jail. She pleaded guilty to voluntary manslaughter on October 6, 1978, and she now works at a shelter for battered wives. (Our sources are Cynthia's attorney, Tony Shaw; and Beth Bochnak. Both were called in March, 1981.)

"I've never been in a speck of trouble before. It's all a waste (the abuse that led up to the shooting, the shooting, and her years in jail)."

Judy Hartwell

Judy Hartwell was a 28-year-old mother of two little boys when she killed her husband, Fred. Judy, who is white and from Detroit, Michigan, was found innocent in the stabbing of her husband who had frequently assaulted her before. She had called the police on numerous occasions, but the authorities did nothing to help her.

On November 9, 1975, Fred came home drunk and gave her a choice - either to have sex with him or to be tied to the bed and whipped. Judy grabbed a paring knife and tried to escape, but he blocked her way. She stabbed him.

In March, 1976, the jury acquitted her on grounds of self-defense following Judge Victor Baum's instructions that a woman has a legal right to forcibly resist unwanted sexual advances by her husband. These instructions were surprising since marital rape is not a crime in Michigan. Judge Baum also disregarded judges' opinions in previous cases where the wife was expected to submit to her husband's demands. (Our sources are K... of August, 1976; and Beth Bochnak, from a call made in March, 1981.)

Deborah Davis

Deborah Davis, a 22-year-old white woman from Lyndon, Kansas, was found innocent in the shocking death of her husband, James Curnutt, 38. They had been married six months, but he had already sexually abused her for five years by torturing her with rubber balls, pins, and an electric cattle prod. He had also imprisoned her in an underground tank.

"Thirteen years of emotional, psychological, and physical brutality."

James owned books on torture, brainwashing and hypnotism. According to Diane Wiley, (who worked on the case for the National Jury Project, which is a nationwide organization of legal workers and social scientists specializing in helping attorneys pick juries), James made Deborah's suffering bearable by giving her "reasons" for it. For instance, he'd say, "I'm going to stick pins in your breast because you don't cry enough, and crying is good for you." Of course, she would cry, and would bring some relief.

But her torture became unendurable when James announced his plans to keep her wrapped in tape, like a mummy, in a coffin beneath the bed. Deborah discovered he was serious when she found a catheter and air pump for keeping her alive. She testified that she was afraid for her life, so she shot James in the back of the head while he was sleeping on Christmas, 1979. The jury in her June, 1980, trial sympathized with her ordeal and cleared her of murder.

Diane said that Deborah acted out of self-defense, which is the use of necessary force. With his prior history of cruelty and power, the gun she used was the equalizer in her hopeless situation. The precedent for this was the reversal of Yvonne Wanrow's 1973 conviction for murder. Yvonne was 5-foot-4, had a cast on one leg and was using a crutch; and the man she killed was a 6-foot-2 drunken man with a prior history of child molestation. He was breaking into her friend's house, and she thought he had already gotten to her children when she shot him in self-defense. Because of the Wanrow precedent the jury is more likely to look at the incident from the woman's point of view, so Deborah was not seen as shooting a helpless man.

"She was tried in another city and convicted of involuntary manslaughter because the jury could not understand why she had not left her husband long ago."

According to Diane, Deborah was a great witness because she was "not angry." Diane said that after a battered woman kills her husband, women's groups tell her that she should be angry about the way he treated her (when she was battered, she couldn't afford to be angry because he would batter her more). So by the time the trial comes about, she is usually justifiably angry, and the jury gets the impression

Deborah had not arrived at this stage prior to the trial. (Our sources are Diane Wiley of the National Jury Project, who was called in March, 1981; and *The Longest Revolution* from August/September, 1980.)

Idalia Mejia

Idalia Mejia, a 30-year-old Mexican woman from Lindsay, California, was found innocent of murder on October 3, 1978, in the shooting death of her husband, Ralph, 30. They had been married for 14 years, but he became abusive when he started drinking. Her public defender, Joe Altschule, said that Ralph once attempted to force Idalia to mate with a dog, another time he "fondled" their 12-year-old daughter to "antagonize" Idalia. Altschule also said that there was sexual abuse because Idalia submitted when, where and how Ralph wanted it, but at the time she just considered it her wifely duty.

Ralph often beat Idalia - with his hand, belt strap or buckle. On one occasion, he grabbed her hair and banged her head against the dashboard and steering wheel of their car. By the time they reached their destination, K-Mart, her head hurt and she had big lumps on the back of her neck. He also repeatedly threatened Idalia and their four children with death. She called the police four times to tell of Ralph's abuse, but he charmed the police and then beat her even more for her audacity.

On December 18, 1977, he was drunk again. They were in bed after yet another quarrel, and he had again threatened to kill her and the children. He alternated between telling her how much he loved her and smashing her face against the wall. She got out of bed, found his .22 caliber revolver and shot him four times, once through the heart, before he could get out of bed.

She was tried for murder in three separate trials; but the first two times, she had hung juries. In September, 1978, the third jury found Idalia innocent. (Our sources are New West, from March 12, 1979; and a March, 1981, phone call to Idalia's public defender, Joe Altschule.)

Frances Hughes

Francine Hughes, from Lansing, Michigan, and the mother of four, was found innocent of the death of her ex-husband, James (Mickey), 31. Francine, who was 29 when she burned the house with Mickey in it, pleaded innocent, not because of self-defense, but because of temporary insanity.

Francine had undergone beatings, plus sexual and verbal abuse from Mickey since her marriage at 16. She eventually divorced him, but after he was injured in an automobile accident, he moved in again. She tried to escape him through seeking help from the police, the courts, and friends and relatives, but no one was willing to help her. In fact, the police often arrived just after a beating and when Mickey was still threatening her, but as long as Mickey didn't touch her in front of them, they couldn't arrest

him. Mickey's threats to kill her were not unfounded--on a few occasions, he choked her or chased her with a knife. He also told her that if she left him, no matter where she went he would find her.

On March 9, 1977, he beat her yet again and forced her to have sex with him. He also forbade her from going to school--her one escape from the house. He even made her burn her books and term paper. After Mickey had gone to sleep, she poured gasoline on the floor around the bed and lit it.

The prosecutor charged her with first degree murder. But the jury accepted Francine's plea of temporary insanity in November, 1977, and she was freed from prison. (Our sources are *The Burning Bed, The True Story of Francine Hughes-A Beaten Wife Who Rebelled* by Faith McNulty, Harcourt Brace Jovanich, New York, 1980; and the *Feminist Alliance Against Rape News*, as printed in the *Center Against Sexual Assault Newsletter* of December, 1977.)

"She called the police four times to tell of Ralph's abuse, but he charmed the police and then beat her even more for her audacity."

Eva Mae Heygood

Eva Mae Heygood, a 27-year-old Black mother of five from Milwaukee, Wisconsin, was charged in the shooting death of her husband, but the judge dismissed the charges at her preliminary hearing.

In the summer of 1976, Eva's husband beat her and tried to force her to perform a "variety of acts of sexual perversion," said her attorney, Al Eisenberg. Eva refused, so he got a loaded .38 and pressed it to her forehead. She grabbed the barrel and twisted it toward him and the gun went off. Eva then draped his body from the rafters of the garage, and tried to throw suspicion off herself by writing a letter from a fictitious jealous lover. But when the police arrived, Eva admitted that she had killed her husband in self-defense, and the judge accepted her testimony. (Our source is Eva's attorney, Al Eisenberg who was phoned in March, 1981)

CONCLUSION

Convictions and acquittals are sporadic, but Black women are more readily convicted. According to Diane Wiley, this is often the case. Since the wife is usually the only witness, she has to look credible to the jury, but when she is not white, the jury looks at her case differently and less sympathetically.

The inconsistent acquittals and convictions show that a woman's legal rights to defend herself against her husband's rape attempts are rather shaky. But "case law allows the use of deadly force to prevent forcible sodomy between male..." (From pamphlet, "Representation of Women Who Defend Themselves in Response to Physical or Sexual Assault" by Elizabeth Schneider and Susan Jordan, 1978.)

A CONVERSATION WITH AL EISENBERG:

"I have defended more major women's cases than anybody in this state (Wisconsin) and won them all. I have also represented more accused rapists than anybody in this state."

Eisenberg considers Jennifer Patri's case a win because she bought and readied the gun, plus shot her husband from the back but instead of getting murder-one, she received a sentence of manslaughter and a school release program.

Eisenberg indicated that he had defended a man accused of raping his wife, but it really wasn't "rape" since the man had "only threatened to commit suicide." (Wisconsin is one of the states where women "in effect" have to ask the court if they have the right to say "no". One spouse has to file a petition for an annulment, divorce, separation, or separate maintenance before the husband can be charged.)

He also defended two accused rapists by suggesting the victim had invited a gang-rape (from DOB, June, 1980 and a phone call to the court reporter)

Eisenberg said that he's a feminist and a member of N.O.W., "But that doesn't mean I'm going to back off my case because someone has a different political feeling. Those men (the two accused gang rapists) are innocent as far as I'm concerned. They got rail-roaded by the judge." The two men were convicted but an appeal is now pending.

In the courtroom during the gang-rape trial, he said that the courtroom was filled with "radical feminist, lesbian separatist banshees." Eisenberg said that he used that phrase because the women that were disrupting the courtroom were a particular group that he recognized from previous encounters as being "lesbian separatists."

He said that this same group said he was "defending a murderer" when he took on Jennifer Patri's case. These "lesbian separatists" have also "tried unsuccessfully" to have him removed from N.O.W.

The findings of Dr. Elaine Hilberman and Kit Munson in their study "60 Battered Wives" sum up why these wives tried to solve their problems through violence. They found that:

"the few women who resorted to counterviolence did so as an act of desperation associated with failure of other options. Their use of violence was related to a direct threat to life and usually came as a surprise to the women who were themselves unaware of the extent of their rage. This is in contrast to the minimal provocation which precipitated violence by the husbands."

(From *Victimology--An International Journal*, vol. 2 (3-4) 1977-1978)

As Elizabeth Schneider says about the number of battered women whose self-defense cases she worked on through the now defunct Women's Self-Defense Law Project,

"Many of these women are literally killing to avoid being killed. Some of them have left home many times before, but their husbands have followed them everywhere they went. Often, they've called the police and gotten no help. Killing may have seemed like the only way they could defend themselves."

(From "When Victims Kill" by Tamar Levin in the *National Law Journal*, Oct. 29, 1979)

We've got to find alternatives for these women. For further information about these women, and about the Clearinghouse membership, publications and resources, send a self-addressed stamped envelope to the National Clearinghouse on Marital Rape, 2325 Oak St., Berkeley, CA 94708.

For information, legislation, and litigation on behalf of battered women, contact The National Center of Women and Family Law, 799 Broadway, Suite 402, NY, NY, 10003.

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Laura X will be doing a workshop at the National Coalition Against Sexual Assault Conference in Syracuse, NY., and in Storres, CT., at the National Women's Studies Association Conference, from May 31 through June 4. If anyone wants to meet with her or have her speak, she needs paid speaking engagements in the area around these states (or donation) to afford the trip. Write to her at the National Clearinghouse on Marital Rape.



Teresa, a journalism volunteer, investigated each of these cases just for this article, starting with newspaper clippings, then by library research and telephoning all over the country. Contributions for the several dozen phone calls and for her time and transportation costs are tax-deductible. The National Clearinghouse on Marital Rape is a project of the Women's History Research Center, which has no funding except donations.

Laura X, Director
National Clearinghouse
on Marital Rape

\$ 2.00

New Women's times
May 81

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Item 39

MARITAL RAPE EXEMPTION PACKET

1. Marital Rape Exemption Chart -- State-by-state summary of the Exemption in Criminal Statutes (8 pages). 1.50
2. Marital Rape Litigation -- Summary and Citations of Case Law (3 pages). \$.75
3. Resources on Marital Rape -- Bibliography of articles, legal articles and studies (3 pages). \$.75
4. Schulman, J., "The Marital Rape Exemption in the Criminal Law," 14 Clearinghouse Review 538 (Oct. 1980) (4 pages). \$1.00
5. Marital Rape Fact Sheet (4 pages). \$1.00

Total Packet: \$5.00

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If you wish to receive any of these materials, please check off and enclose appropriate payment. Prices cover costs of xeroxing and postage only.

Thank you.

South Dakota - Compiled Laws Ann. §22-22-1 (1979)
(Note: South Dakota amended its statute to strike the marital rape exemption, but the following year repealed that amendment)

*Texas - Pen. Code Ann. §21-02(a) (1979)

Vermont - Stat. Ann.; Title 13 §3252 (effective 7/1/77)

*West Virginia - W. Va. Code §61-8B-1 (1977)

Washington - Rev. Code Ann. Ch. 9A.44.010,
9A.44.040, 9A.44.050, 9A.44.060
(effective September 1, 1979)

(Note: in 1979, the city of Seattle passed a city ordinance striking the marital rape exemption).

-- 11 states: marital rape exemption ends when parties are separated under a court order:

*Kentucky - Rev. Stat. §510.010(3) (1975)

Louisiana - Rev. Stat. Ann. §14.41 (1978)

Maryland - Ann. Code §27-464D (1979)

Missouri - Ann. Stat. §566.010:2 (1979)

New York - N.Y. Pen. Law §130.00

(Note: exemption also ends if parties entered into separation agreement which includes an express provision that husband will be criminally liable for raping woman. 1980 legislation to strike "express provision" requirement failed).

North Carolina - Gen. Stat. §14-27.8 (1979)

(or living apart pursuant to a written separation agreement).

*North Dakota - Code Ann. §12.1-20-01, 12.1-20-02 (1977)

Rhode Island - Gen. Laws §11-37-1 (1979 Supp.)

South Carolina - Code §16-3-658 (1977)

Utah - Crim. Code Ann. §76-5-402, §76-5-407 (1979)

Wyoming - Stat. Ann. §6-4-307 (Laws 1977)

-- 6 states: marital exemption ends where parties are living apart and one spouse has filed a petition for annulment, divorce, separation or separate maintenance:

Indiana - Stat. Ann §35-42-4-1(b) (amended 1977)

Michigan - Mich. Second Rev. Crim. Code Ch. 23
§2340 (1980)

Nevada - Rev. Stat. §200.373 ()

*See "Expansion" Section, infra.

Ohio - ORC §§ 2907.01(L), 2907.02 (or if parties have entered into a written settlement agreement).

Tennessee - Code Ann. §39-3709 (1979)

Wisconsin - Stat. Ann. §940.225 (6) (1978)

-- 2 states: no marital exemption when parties are living apart, OR one spouse has initiated legal proceedings:

Idaho - Code §18-6107 (1977) (parties must be living apart at least 180 days).

New Mexico - Stat. §30-9-10 (1978)

-- 10 states: no marital exemption where parties are living apart (do not need court order or separation agreement):

Alaska - Stat. §11.41.445(a) (effective 1-1-80) (marriage is an affirmative defense, except where parties are living apart, or defendant caused serious physical injury).

Arizona - Rev. Stat. §§13-1401.1, 13-1404 to 13-1406 (1978)

Colorado - Rev. Stat. §18-3-409 (1975)

Idaho - Code §18-6107 (1977) (parties must have been living apart for at least 180 days).

Iowa - Code Ann. §§709.2, 709.3, 709.4 (1978) (exemption in third degree only).

*Maine - Rev. Stat. Ann. Title 17A §§11-251, 252 (1979)

Mississippi - M.C.A. 97-3-95 (Supp. 1981) [Sexual battery].

*Montana - Rev. Code §45-5-506 (1979)

New Mexico - Stat. Ann. §§30-9-10E, 30-9-11 (1978)

*Pennsylvania - Stat. Ann. Title 18 §3103 (1977)

(Note: no exemption if parties have entered into a written separation agreement even though they are still living together).

-- 5 states: have no express marital rape exemption in their statutes. Whether the alleged "common law" exemption (barring prosecution) is applied is a matter of judicial decision and/or legislative intent.

Arkansas - Stat. §§41-1801, 41-1803 (1976) (Note: express exemption for statutory rape, §§1804-1806).

*See "Expansion" Section, infra.

Georgia - Code Ann. 26.2001 (amended 1978)
(Note: express exemption for
statutory rape, §26-2018).

Mississippi - MCA 97-3-65(2) (1979) [rape statute]
Virginia - Va. Code 18.2-61 (1981 Amendments)
Washington, D.C. - R.S.D.C. §22-2801 (1967)

STATES WHICH HAVE STATUTORILY LIMITED OR
STRICKEN THE MARITAL RAPE EXEMPTION

-- 5 states: have abolished the marital rape exemption altogether. Rape by a spouse is the same as rape by a stranger.

Florida - Stat. Ann. §794-011 (1979). No exemption; spouses can be charged the same as strangers, State v. Larry Smith, Court of Appeal, Fifth District, Case No. 80-878, decided July 1, 1981. (See LITIGATION Section.)

Massachusetts - Ann. Laws. Ch. 265 §22, Ch. 277 §39 (1979). No exemption; spouses can be charged the same as strangers. Commonwealth v. Chretien --- Mass. ---, Docket No. E-2276, decided March 9, 1981. (See LITIGATION Section.)

New Jersey - S.A. §2C:14-5(b), effective 9/1/79.
This is the only state which has affirmatively abrogated the alleged "common law" exemption:

"No actor shall be presumed to be incapable of committing a crime under this Chapter [Sexual Offenses] because of age or impotency or marriage to the victim." N.J.S.A. §2C:14-5(b).

Nebraska - Rev. Stat. §§28-319, 28-320, effective 1/1/76, repealing and replacing §28-403.03 and .04 which included exemption.

Oregon - Rev. Stat. §163.305, amended by 1977 c. 844, deleting marital rape exemption.

-- 7 states: have partially stricken, or limited, the marital rape exemption so that rape by a spouse is a crime under most circumstances:

California - Pen. Code §262, effective 1/1/80, establishing a separate crime of spousal rape. However, the marital rape exemption is still applicable where (1) the rape is not reported to the police or district attorney within 30 days after the day of the violation; or (2) the victim is "incapable" of giving legal consent (e.g., mentally or physically handicapped; intoxicated or drugged, even when victim's state is due to acts of the defendant; unconscious of the nature of the act).

Connecticut - Pen. Code 53a-67(b), effective October 1, 1981 (HB 5247). Marital and cohabitant exemption deleted from first degree, forcible rape. Exemptions remain, as affirmative defense, to lesser degrees of rape and sexual assault.

*Delaware - exemption deleted from first and second degree rape (D.C.A. §§763, 764). However, D.C.A. §764 (first degree rape) includes a "voluntary social companion" exemption which may operate to exempt spouses and cohabitators.

Exemption still applies to Sexual Assault (D.C.A. §761, Class A Misdemeanor) and Sexual Misconduct (D.C.A. §762, Class E Felony). Additionally, exemption, where applicable, is extended to unmarried cohabitators. D.C.A. §772.

Hawaii - Rev. Stat. §§707-730, 707-731, 707-732, effective 6/21/79. By amending statutes to gender neutral terms, marital rape exemptions were deleted. However, "voluntary social companion" exemption in §707-730 (first degree rape) may operate to exempt spouses and cohabitators.

Minnesota - Stat. Ann. §609.349, amended 1980, expressly deletes marital rape exemption in most cases: "Nothing in this section shall be construed to prohibit or restrain the prosecution for any other offense committed by any person against his legal spouse."

However, exemption (which includes cohabitators) still applies in statutory rape, and cases where victim is mentally or physically disabled.

New Hampshire - RSA §632-A:5 (amended by HB 516; effective September 1981). Exemption deleted, except for statutory rape cases, or cases involving "mentally defective" victim-wives. (RSA 632-A:2, :3)

Iowa - Code Ann. §§709.2-709.4. No exemption in first and second degree Sexual Abuse; exemption for third degree Sexual Abuse.

* See "Expansion" Section, infra.

EXPANSION OF THE MARITAL RAPE EXEMPTION

-- 13 states have now expanded this marital "privilege" or "right" of rape to unmarried cohabitants (hereinafter referred to as "cohabitators") e.g., "the exclusion shall be deemed to extend to persons living as man and wife, regardless of the legal status of their relationship." (Montana, RCM §45-5-506(2)).

Additionally, 5 states* have also provided a partial exemption to "voluntary social companions", thereby, to an extent, legalizing "date rape":

Alabama, Crim. Code §13A-6-60(4) (exemption extends to cohabitators).

Connecticut, Pen. Code §53a-67(b) (cohabitation is an affirmative defense, except to first degree rape)

*Delaware, Code Ann. §772(b) (exemption for cohabitators to sexual assault and sexual misconduct); and Code Ann. §764(2) (first degree rape exemption where defendant was victim's "voluntary social companion" on the occasion of the crime and victim had previously permitted him sexual contact).

*Hawaii, Rev. Stat. §707-730(1)(a)(i) exemption to first degree rape where victim was defendant's "voluntary social companion who had within the previous thirty days permitted him sexual intercourse". If defendant inflicts "serious bodily injury", the "voluntary social companion" exemption does not apply. There is no exemption for second or third degree rape.

Iowa, Code Ann. §709.4 (exemption to third degree Sexual Abuse for cohabitators. No exemption to first and second degree Sexual Abuse).

Kentucky, Rev. Stat. Ann. §510.010(3) (exemption extended to cohabitators; marriage defined as "persons living together as man and wife regardless of the legal status of their relationship". Decree of judicial separation required to end exemption for legally married spouses).

*Maine, Rev. Stat. Ann. Title 17-A §252.2 (cohabitation as an affirmative defense) and §252.3 ("voluntary social companion" defense)

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MARITAL RAPE LITIGATION

The following pleadings and materials are available from NCOWFL unless asterisked. If asterisked, they are available from Clearinghouse for Legal Services, 500 North Michigan Avenue, Suite 1940, Chicago, Illinois 60611.

1. State of New Jersey v. Albert Smith, 426 A.2d 38 (1981), appeal of defendant-husband's motion to dismiss charges of rape of his wife on the grounds that the criminal rape statute codifies the alleged common law marital rape exemption. Defendant's trial motion was granted, 148 N.J. Super 219 (Law Div. 1977). The Appellate Division affirmed the dismissal, 169 N.J. Super 98 (App. Div. 1979). The Supreme Court of New Jersey unanimously reversed the dismissal and reinstated the indictment for rape.
 - * (a) New Jersey Supreme Court 27 page opinion, and concurring opinion (J. Sullivan), 426 A.2d 38 (1981), holding that New Jersey's former rape statute, having no express exemption, did not incorporate or codify a "common law" marital exemption to rape. The Court discusses at length the doubtful origins and authority of the alleged "common law" rule (Hale's doctrine), concluding that "[n]either was the law of this State under the former rape statute as blind to personal liberty and privacy as defendant would have this Court believe. A man separated from his wife - and perhaps one not separated - could not invoke an outdated and doubtful rule to avoid prosecution for rape simply because he was still legally married to his victim." (p. 27) Clearinghouse No. 30,489.
 - * (b) Amicus Brief of the National Center on Women and Family Law, Inc., arguing that the exclusion of married women from the protection of the criminal law when they are raped by their husbands is a denial of equal protection. Clearinghouse No. 30,489.
2. State of New Jersey v. Daniel Morrison, defendant-husband's pretrial motion to dismiss rape charges was denied; defendant subsequently stood trial and was convicted and sentenced for raping his estranged wife. The Appellate

Division, by per curiam decision, summarily reversed defendant's conviction for rape (Docket No. A-271-78, decided Jan. 18, 1980; unpublished). Supreme Court of New Jersey reversed Appellate decision, reinstating the rape conviction based on their decision in State v. Albert Smith, supra .

- (a) Petition for Certification and Appendix on behalf of the State of New Jersey (dated February 19, 1980), which includes a copy of Appellate Division's per curiam decision reversing rape conviction. The State argues that the alleged "common law" marital rape exemption does not extend to estranged marriages
 - (b) Brief and Appendix for the State of New Jersey on appeal to Appellate Division of Superior Court.
3. State of Florida v. Larry Smith, appeal of defendant-husband's pretrial motion to dismiss the charge of sexual battery on the grounds that the criminal statute codifies a pre-existing "common law" marital exemption. Defendant's trial motion was granted (order dated July 30, 1980). The State appealed the lower court's dismissal of the sexual battery charge. The Florida District Court of Appeal, Fifth District, Case No. 80-878, opinion filed July 1, 1981, held that no exemption existed in Florida, and reversed the trial court's order; Husband must stand trial for rape of his wife.
- * (a) Florida Court of Appeal, Fifth District Decision, holding that Florida's sexual battery statute does not incorporate a marital exemption. The court reviewed at length the New Jersey Supreme Court's decision in State v. Smith, 426 A.2d 38 (1981), and relied heavily on the New Jersey court's reasoning. The Florida court noted that sexual battery is a crime of violence, not sex. Additionally, the court pointed out the absurdity of defendant-husband's claim under the current sexual battery statute, which prohibits nonconsensual sexual conduct between persons of the same or different sex. "In Hale's time, a man could not be the victim of rape, but under section 794.011, Florida Statutes, he can be. It is inconceivable that a husband would accept the argument that by marriage he consented to the conduct defined in the statute if inflicted upon him by force or violence." (p. 5). Clearinghouse No. 31,552.
 - (b) Amicus Brief of the National Center on Women and Family Law, inc., and Central Florida Legal Services, Inc., arguing that the exclusion of married women from the protection of the criminal law when they are raped or sexually battered by their husbands is a denial of equal protection.

(c) Initial Brief of Appellant, State of Florida, arguing that Florida's sexual battery statute, which codifies the crime of rape, makes no mention of and does not include a marital exemption. The Legislature in enacting the sexual battery statute did not preclude charging a husband for the forcible sexual battery of his wife.

4. Commonwealth v. James K. Chretien, appeal of defendant-husband's conviction of rape of his wife. At trial, defendant's motion to dismiss the rape indictment based on the "common law" spousal exemption was denied. On September 21, 1979, defendant was convicted by a jury of rape and breaking and entering, and was sentenced to 3-5 years in prison and three years probation after release. On March 9, 1981, the Massachusetts Supreme Judicial Court, in a unanimous opinion, affirmed the conviction, holding that a person may be prosecuted for and convicted of rape even if the rape victim is defendant's spouse. (— Mass. —, Docket No. E-2276)

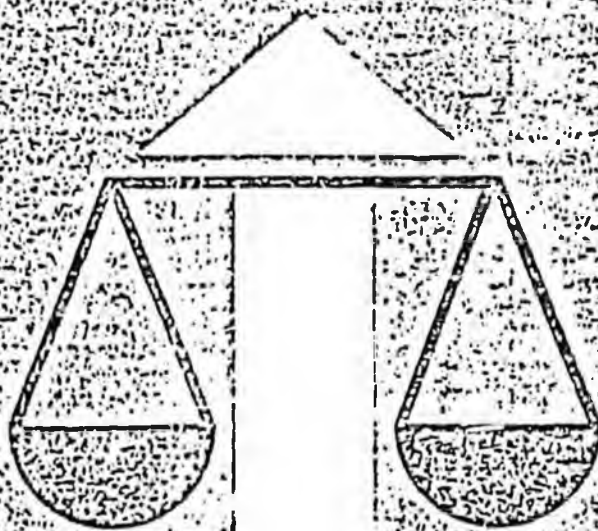
*(a) Massachusetts Supreme Court unanimous opinion (20 pages, written by Chief Justice Hennessey), holding that the legislature's revision of the rape statutes in 1974 eliminated any "common law" spousal exemption. The court analyzes the history and bases for the alleged common law doctrine. The court finds that the legislative intent to criminalize marital rape is evidenced in the state's "Domestic Violence Act" (G.L. ch.209A) which expressly defines "abuse" to cover and include sexual abuse. The court does not limit its holding to separated or estranged spouses; the terms of Massachusetts's revised rape statute clearly applies to married couples even while living together. Clearinghouse No. 31,712.

Clearinghouse Review

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Contents

- 515 Settling Cases with Attorneys' Fees Claims, *Stanley E. Levin*
- 522 Plain-Language Laws, *Michael Ferry and Richard B. Teitelman*
- 528 Federal Efforts to Save Public Hospitals, *National Health Law Program*
- 529 Coercive Use of Ritalin for Behavior Control, *National Center for Youth Law*
- 531 Obtaining Higher Benefits; Nonfraud Overissuances of Food Stamps, *Food Research and Action Center*
- 533 Litigation Within the VA Benefits System, *National Veterans Law Center*
- 538 The Marital Rape Exemption in the Criminal Law, *National Center on Women and Family Law*
- 540 Divorced Spouses and Pension Benefits, *National Senior Citizens Law Center*
- 542 Mental Health Systems Act, *Mental Health Law Project*
- 543 Consumer and Energy News, *National Consumer Law Center*
- 550 Federal Register Highlights
- 554 Management of Legal Services
- 554 Managing Non-LSC Funding, *John C. Landis*
- 562 Pro Bono Help for Legal Services Programs, *Eva Jefferson Paterson*
- 564 Open Forum
- 565 Case Developments
- 565 Attorneys' Legal Services
- 567 Bankruptcy
- 568 Civil Procedure
- 568 Civil Rights
- 569 Consumer
- 573 Domestic Relations
- 574 Education
- 575 Elections
- 575 Employment
- 577 Handicapped Persons
- 580 Health
- 585 Housing
- 591 Immigration
- 592 Juveniles
- 593 Landlord/Tenant
- 594 Mental Health
- 594 Migrants
- 595 Native Americans
- 596 Prisons
- 597 Public Utilities
- 597 Social Security
- 600 Unemployment Compensation
- 600 Welfare
- 609 Bibliography
- 611 Calendar



The Marital Rape Exemption In the Criminal Law

The battered women's movement has brought to public light the abuse and violence women suffer from their husbands, ex-husbands, male mates and ex-mates. Researchers and advocates on behalf of battered women have realized that this violence includes severe physical abuse as well as non-physical violence such as threats of severe harm or degradation. Until recently, however, rape of women by their husbands and male mates has remained a silent and hidden crime. Men's right to rape their wives is in fact not a crime in most states. The legal right of marital rape is known as the "marital rape exemption" and is embodied in state criminal statutes as well as the Model Penal Code (sections 213 *et seq.*). There has been limited progress towards the erosion of the marital rape exemption, but this has been more than offset by the significant extension of the exemption to additional classes of defendants.

The legal system has been and continues to be a not-so-silent partner to this "marital right" of violence. Historically, battering and rape of wives has been recognized as a husband's legal right. The legal system's condonation of wife-beating was expressed in 1824 by the Mississippi Supreme Court which held that a "husband should be permitted to chastise his wife moderately in cases of great emergency 'without subjecting himself to vexatious prosecution for assault and battery, resulting in the discredit and shame of all parties concerned.'" *Bradley v. State*, 2 Miss. (Walker), 15th, 158. Other states limited the husband's common law right to beat his wife by the "Rule of Thumb": He was allowed to beat her as long as the stick was "no thicker than his thumb." Prosser, *Handbook of the Law of Torts*, 136 (4th ed. 1971). Since the mid-1800's, wife beating has been a crime in every state, yet these laws have not been enforced against battering husbands or boyfriends. Today, this "marital right" is upheld in the policies of noninvolvement by the courts, nonarrest by police, and nonprosecution by district attorneys.

The principle that a husband cannot, as a matter of law, rape his wife first appeared in written English Law in the 17th century and was stated in the following manner:

But the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract, the wife hath given herself in this kind unto her husband which she cannot retract. 1 Hale, *History of the Pleas of the Common Crown* 629 (1736 ed.).

Lord Matthew Hale authored this alleged common-law rule with absolutely no supporting authority. Lord Hale's recognition was not, unfortunately, restricted to the area of marriage. His infamous statement that rape is a charge "easily to be made and hard to be proved, and harder to be

defended" (1 Hale, *The History of the Pleas of the Crown*, 635 (1978)) is preserved in state jury instructions (see 61 Cal. L.R. 919, 931-932 (1973)). Additionally, Hale played a significant role in the persecution of witches in England. For a thorough analysis and discussion of the lack of support for this alleged common-law rule see Drucker, *The Common Law Does Not Support A Marital Exception for Forcible Rape*, 5 Women's Rights L. Rep. 181 (1979).

Present Status of the Marital Rape Exemption

Today, a husband's "marital right" to rape his wife is expressly recognized in at least 37 states. Husbands are afforded this right through an express statutory exemption provided in state criminal statutes.

(a) A male person of the age of 14 years and upwards who has sexual intercourse with a female, not his wife, by force and against her will, commits rape. (Emphasis added). Ill. Ann. Stat., ch. 38, §11-1 (1977).

In 10 states (Alabama, Connecticut, Illinois, Kansas, Oklahoma, South Dakota, Texas, Vermont, West Virginia and Washington) the statutory marital rape exemption is absolute. It applies regardless of whether the parties are living apart voluntarily or by court order; only a final decree of divorce terminates the exemption.

In 27 states certain limitations are placed upon the statutory marital rape exemption. These limitations reflect the varying degrees in which states recognize a wife's intent to extricate herself from the marriage as a basis for limiting the exemption. In 11 states (Kentucky, Louisiana, Maryland, Missouri, New York, North Carolina, North Dakota, Rhode Island, South Carolina, Utah and Wyoming) the statutory exemption is denied to a spouse once a judicial decree or order of separation is entered. The exemption still applies, however, when the spouses are living apart, and/or legal action to terminate the marriage is pending. In six states (Indiana, Michigan, Nevada, Ohio, Tennessee and Wisconsin) the marital exemption ends when the spouses are living apart and a petition for annulment, divorce or separation has been filed. In 10 states (Alaska, Arizona, Colorado, Idaho, Iowa, Maine, Montana, New Hampshire, New Mexico and Pennsylvania) the marital rape exemption ends once the parties are living apart; no court order is required.

Rape statutes in seven jurisdictions (Arkansas, Florida, Georgia, Massachusetts, Mississippi, Virginia and the District of Columbia) contain no express marital exemption. Whether the alleged common-law exemption applies in these states, thereby barring prosecution of husbands for marital rape, remains a matter of judicial decision and legislative intent. Arkansas and Georgia provide express marital exemptions for statutory rape (Ark. Stat. §§41-1804-1806; Ga. Code Ann. §26-2018) but not forcible rape (Ark. Stat. §§41-1801, 1803; Ga. Code Ann. §26-2001). It is therefore arguable that the legislatures of these states did not intend a common-law exemption to apply when the statute is silent. In Florida and

1. Citations to state statutes are available upon request from the National Center on Women and Family Law.

Massachusetts husbands have been convicted of rape of their estranged wives.² There are no reported cases regarding marital rape in Mississippi, Virginia and the District of Columbia.

Lobbying efforts to end this archaic and sexist "marital right" or protection afforded husbands have been hard fought and, to a large extent, unsuccessful. Opposition to legislative efforts is being met with the following typical arguments:

...the state of Florida has absolutely no business intervening into the sexual relationship between a husband and a wife.... We don't need Florida invading the sanctity and the intimacy of a husband and wife's sexual relationship. [Rep. Tom Bush, Ft. Lauderdale, Fla., Transcript of Floor Debate on House Bill 680, at 3-4, May 29, 1980];

...the Bible doesn't give the state permission anywhere in that Book for the state to be in your bedroom, and that is just exactly what this bill has gone to: its meddling in your bedroom, the State of Florida, as an entity, deciding what you can do and what you can't do. [Rep. John Winter, Winter Park, Fla., Transcript of Floor Debate on House Bill 680, at 6, May 29, 1980];

...if you can't rape your wife, who can you rape? State Senator Bob Wilson, addressing a group of women lobbyists regarding California's Marital Rape Bill AB 546, Spring 1979]

To date, only three states have totally abolished the marital rape exemption. The express exemptions in Oregon and Nebraska statutes were stricken (Neb. Rev. Stat. §§28-319, 28-320, effective 1976, repealing and replacing §§26-403.03 and §28-403.04; Or. Rev. Stat. §163.305, amended by 1977 c. 544). New Jersey legislators went one step further in abrogating the marital rape exemption by including an express statutory provision that "no actor shall be presumed to be incapable of committing [sexual offense] because of . . . marriage to the victim." (N.J. Stat. Ann. §2C:14-5(b), effective Sept. 1, 1979). Additionally, the exemption has been deleted in most, but not all, cases in California (Cal. Penal §262, effective Jan. 1, 1960, establishing a separate crime of spousal rape), Minnesota (Minn. Stat. Ann. §609.349, amended in 1980, deletes the exemption in most cases), and Iowa (Iowa Code Ann. §709.2-709.4, exemption deleted from first and second degree sexual abuse; exemption retained in third degree).

Delaware and Hawaii have amended their rape statutes by deleting the marital rape exemption on one hand, but then granting an exemption to a previously unprotected class of defendants. In Delaware the marital exemption was deleted from first and second degree rape (Del. Code Ann. §§763, 764). However, in first degree rape the marital exemption was replaced with an exemption for "voluntary social companions" (*see infra*). The Hawaii legislature amended its rape

statutes to provide for gender neutral terms, and in so doing deleted the marital rape exemption. However, like Delaware, a "voluntary social companion" exemption was included in first degree rape (Hawaii Rev. Stat. §707-730).

Expansion of the Marital Rape Exemption

The marital rape exemption has traditionally only applied to, and protected, husbands in legally valid marriages. Various theories, in addition to Hale's "matrimonial consent," have been subsequently offered as the basis for this marital right or privilege of rape: the "unity of person" common-law doctrine, whereby the legal identity of a woman merged upon marriage into that of her husband and made rape by her husband legally impossible since he could not rape himself; or the position of women as property or chattel of their husbands meant that a husband's rape of his wife was merely making use of his own property. All of these "rationales" underlying the marital rape exemption depended upon and required a valid marriage contract.

Exemption for Unmarried Cohabitants

While efforts to abolish the marital rape exemption are meeting strong resistance, legislators in 12 states (Alabama, Connecticut, Delaware, Hawaii, Iowa, Kentucky, Maine, Minnesota, Montana, North Dakota, Pennsylvania, Texas, West Virginia) have extended this "privilege of marriage" to unmarried persons. Eleven of these states extend the marital rape exemption to persons living together who are not married to each other (i.e., cohabitation relationships). For example, Montana provides that "...the exclusion shall be deemed to extend to persons living as man and wife, regardless of the legal status of their relationship." Mont. Rev. Codes Ann. §45-5-506(2). *See also* Alabama (Crim. Code §13A-6-60(4)); Delaware (Code Ann. §772(b)); Iowa (Code Ann. §709.4, exemption only for third-degree sexual abuse); Minnesota (Stat. Ann. §609.342, exemption only for statutory rape and specified cases involving handicapped couples); Pennsylvania (Stat. Ann. Title 18 §3103); Texas (Penal Code §21.12). In West Virginia (Code §61-6B-1(2)) and Kentucky (R.S.A. §510.010(3)) "marriage" is defined in the criminal statute to include unmarried cohabiting persons. Connecticut (Penal Code §§3a-67(6)) and Maine (R.S.A. Title 17-A §252.2) expressly provide that cohabitation shall be an affirmative defense to rape.

The expansion of the marital rape exemption to cover unmarried cohabitants is "justified" in the Practice Commentary following Texas Penal Code §21.12:

Adults cohabiting may terminate their relationship if one dislikes the other's sexual conduct, and there is no justification for the criminal law's intrusion into the relationship. This section restates and expands the prior law's recognition of this commonsense notion, which was reflected in [Texas] Penal Code art. 1153's definition of rape to exclude sexual intercourse between husband and wife.

While men in these unmarried cohabiting relationships are increasingly being granted the "marital privilege" of rape, women in these relationships have fared far worse in their attempts to obtain privileges of marriage such as spousal sup-

2. Commonwealth v. Chretien, No. 49983-84, 85 (Essex County Superior Court, Mass., Sept. 1979); People v. Finley, No. CRC 82-877 (Criminal Division, Pinellas County Circuit Court, Florida, Apr. 1980).

port ("palimony"), division of the couple's property, or civil orders of protection. In these few states where unmarried women are accorded these rights, courts have first required an express or implied agreement between the parties. No such requirement is made with respect to the expansion of the marital rape exemption.

"Voluntary Social Companion" Exemption

The extension of the marital rape exemption has gone even further in five states. Delaware, Hawaii, Maine, North Dakota and West Virginia do not require cohabitation and they provide partial exemption or immunity for those "date rapes" in which the victim was defendant's "voluntary social companion" who had previously permitted him sexual contact. See Del. Code Ann. §764(2) (first degree rape); Hawaii Rev. Stat. §707-730 (first degree rape; exemption requires sexual intercourse within previous 12 months); Maine Rev. Stat. Ann. Title 17-A §252.3 (affirmative defense which

reduces offense to Class B crime); N.D. Code Ann. §12.1-20-03:3 (reduces crime to Class B felony; exemption applies if victim has at any previous time permitted defendant "sexual liberties"). West Virginia presents the extreme example of legalizing "date rape." The "voluntary social companion" exemption to first degree sexual assault requires no previous voluntary sexual act between the defendant and victim (W. Va. Code §61-8B-3(aXiii)).

Conclusion

These new exemptions, like the original marital rape exemption, are without any basis in the common law. The effect of these extensions is that if a woman cohabits with a man, or agrees to intercourse once, or, in some states, if she dates a man, she has lost the protection of the criminal laws that she at least in theory formerly had.

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Divorced Spouses Are Left Out in the Co'd for Distribution of Former Spouses' Pension Benefits

With all of its inadequacies, one aspect of the Social Security Act which borders on real progress is its provision of a separate benefit to the divorced spouse of an insured wage-earner when the couple was married for at least 10 years.¹ Neither of the two largest federal public pension programs, Civil Service Retirement and Railroad Retirement, make provision for divorced spouses. Indeed, the Railroad Retirement Act has taken pains to ensure that divorced spouses are explicitly excluded from ever obtaining an annuity based on the work record of the former spouse.² Moreover, the private pension area affords no more

progressive an outlook. The Employee Retirement Income Security Act of 1974 (ERISA),³ which was intended as a comprehensive effort to provide the most basic guarantees to individuals dependent on private pensions, does mandate that plans provide employees with the option to select a "joint and survivor annuity,"⁴ but the requirement is not applicable to former spouses.

It is not news that the divorce rate doubled during the seventies, and many couples who were married for a significant period of time—20 or more years—are dissolving their marriages. One obvious result is that the number of divorced spouses without work records of their own—the great majority of whom, for the time being, are women—has also grown dramatically. And without covered employment, they are deprived of retirement benefits, except for the relatively low benefits available to those whose divorced spouses were covered by Social Security.

Some litigative approaches have been considered to remedy the situation. Divorced spouses of former railroaders, for instance, have suggested that it is unconstitutional to provide divorced spouses' benefits under the Social Security Act but not under the Railroad Retirement Act. It is true that the two Acts are comparable to a limited degree, that they were intended to provide similar coverage to workers in non-railroad and railroad industries, and that they are integrated in some aspects. However, at the same time, they were designed for somewhat different reasons and are different in many significant respects.⁵ The likelihood of forcing the

1. 42 U.S.C. §4020(b). Although the statute has not been rewritten, a class-wide decision ensured that the benefit was equally available to men and women. *Oliver v. Califano*, 581 F.2d 1183, 1189 (CA 11, 1978). The former 20-year requirement was reduced to 10 years on January 1, 1979. Pub. L. No. 95-216, §337(c) (Dec. 14, 1977).
2. See 45 U.S.C. §231(d)(3). One bizarre and apparently unintended result of providing benefits for surviving divorced spouses in the Social Security Act, but having no comparable provisions in the Railroad Retirement Act, is that surviving divorced spouses of individuals who were insured under both Acts are denied the social security benefits which they would receive if their deceased former spouse had been insured under only the Social Security Act. 42 U.S.C. §402(b). Because of the boggling irrationality of this result, a challenge is being prepared.

3. 29 U.S.C. §§1001 *et seq.*

4. 29 U.S.C. §1055.

5. For instance, railroad retirement benefits are greater than social security benefits because the former include a private pension "component" while the latter have always been theoretically intended to complement private pension payments—however unrealistic that purpose has proved in practice. See *Hisquierdo v. Hisquierdo*, 99 S.Ct. 802, 84-805 (1979).

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MARITAL RAPE FACT SHEET*

1. Fact or Fiction? "MARITAL RAPE ISN'T AS SERIOUS AS RAPE BY A STRANGER--IT'S JUST A WOMAN NOT BEING IN THE MOOD AND HER HUSBAND INSISTING."

As a matter of fact, marital rape is often just as violent, just as degrading, and oftentimes more traumatic than rape by a stranger. It is perpetrated with knives, at gunpoint, repeatedly, brutally, in front of others, and most often is the final violent act culminating a series of physical abuses. One woman has reported being beaten and raped by her husband virtually every day for six months, anally raped 9 or 10 times. He told her that, if she ever tried to leave, he would kill her. In terror she fled to another state, changed her name, and lived there for a year inognito.

2. Fact or Fiction? "MARITAL RAPE ISN'T OFFENSIVE--AFTER ALL, A WIFE HAS HAD SEX WITH HER HUSBAND BEFORE, WHAT'S ONE MORE TIME?"

As a matter of fact, a woman raped by a stranger has to live with the memory of that experience. A woman raped by her husband has to live with her rapist. Many wife victims, trapped in a reign of terror, experience repeated sexual assaults over a number of years. What happens to a capacity for intimacy when the person who has promised to love and protect, and on whom one may be economically dependent, commits such a brutal and violent violation?

* Prepared and distributed by the Pennsylvania Commission on the Status of Women.

3. Fact or Fiction? "MARITAL RAPE IS A BIZARRE AND UNUSUAL ACT AND DOESN'T NEED LEGISLATIVE ACTION."

As a matter of fact, most experts consider rape to be the most underreported of all crimes and marital rape even more so. Over a third of women who appear at battered women's shelters report being sexually assaulted by their husbands. It is seldom discussed. Humiliated and ashamed, marital rape victims don't talk about it. They don't report it because the law does not help them.

4. Fact or Fiction? "WHEN A WOMAN MARRIES, SHE CONSENTS TO SEXUAL INTERCOURSE WITH HER HUSBAND."

As a matter of fact, sexual expression in love is one thing. Forced, brutalized sex is another. No one consents to violence by marrying. Under current law prosecution is impossible for even the most brutal rapes in marriage.

5. Fact or Fiction? "IF PROSECUTIONS ARE ALLOWED FOR MARITAL RAPE, A LOT OF INNOCENT HUSBANDS WILL HAVE RAPE CHARGES FILED AGAINST THEM BY ANGRY, VENGEFUL WIVES WHO HOPE TO BARGAIN FOR A BETTER PROPERTY SETTLEMENT IN A DIVORCE ACTION."

As a matter of fact, this myth is built on the ill-founded belief that women are innately vengeful and willing to go through the tortures of a courtroom trial in order to "get back" at a man, and that somehow women should be treated as less credible victims of crime than others. Actually, there are many other types of complaints which a woman could file for retaliation that would require less public self-exposure and trauma. Further, our legal system has built in mechanisms to determine the merits of a complaint. Police investigations, prosecutor discretion, and jury deliberations are employed to determine the truth or falsity of other allegations. Why should marital rape be treated any differently? Finally, no such misuse has been documented by the states that have eliminated immunity of spouses from prosecution for rape. Only the most extremely brutal and horrifying incidents of marital rape have been reported.

6. Fact or Fiction? "MARITAL RAPE IS SIMPLY ONE SPOUSE'S WORD AGAINST THE OTHER, HENCE IT WILL BE DIFFICULT TO PROSECUTE."

As a matter of fact, when has difficulty to prosecute determined what a crime is? Treason, conspiracy, child abuse, and incest are difficult to prove, but there is no outcry to decriminalize them.

7. Fact or Fiction? "THERE ALREADY EXIST REMEDIES FOR MARITAL RAPE--A WOMAN CAN FILE ASSAULT CHARGES OR GET A DIVORCE."

As a matter of fact, all rapists assault their victims. Rape is a crime different from assault. That is why special rape laws exist. Rape involves a special humiliation and special violation. Assault is a less serious crime, its penalty less a deterrent. Even though a woman might escape as a victim by filing for divorce, should the committer of the criminal acts escape punishment for them? An appropriate deterrent to this type of violent behavior is not now available.

8. Fact or Fiction? "MARITAL RAPE LAWS WOULD HAVE THE STATE MEDDLING IN PEOPLE'S BEDROOM AFFAIRS."

As a matter of fact, the state is meddling in the bedroom whether there is a marital rape law or not. In one case the state allows husbands to rape their wives. In the other, the state protects wives from this type of violence. Should murder and assault between spouses be decriminalized just because it's a family affair? A husband should no more fear criminalization of marital rape than a parent fears laws on incest or child abuse. The law should condemn a brutal, hostile, revengeful, hateful, and anti-social act whether it happens within a marriage or without.

9. Fact or Fiction? "MARITAL RAPE LAWS WILL DESTROY MARRIAGES BY PREVENTING ANY POSSIBLE RECONCILIATION."

As a matter of fact, isn't a marriage in which a husband rapes his wife and she presses charges already destroyed? Withholding justice and equal protection to try to hold together such a marriage is an unrealistic and improper goal for the criminal law. The law now protects a raping husband rather than a victim wife, and women can be coerced into staying in violent marriages. Should the law encourage such forced cohabitation?

10. Fact or Fiction? "SINCE SO FEW CASES ARE BROUGHT TO TRIAL, WHY BOTHER WITH A MARITAL RAPE LAW?"

As a matter of fact, the law protects either the victim or the rapist. Husbands who commit acts of violence against wives now receive special protection from the law in Pennsylvania. Should such special protection more rightly belong with the victim? Passage of H.B. 1122 would call attention to the problem, let the victims know there can be help, and, by removing society's sanction for such behavior, work to deter it.

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RESOURCES ON MARITAL RAPE

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return stamped envelope, plus tax deductible membership fee
(\$10 students and activists; \$15 faculty, researchers; \$25
attorneys; \$30 libraries and organizations).

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12/80

*California Socio-legal Chart
of Marital Rape Cases Since
January 1980*

NATIONAL CLEARINGHOUSE ON MARITAL RAPE
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APRIL 1983

Name	Arrested	Charges	Arranged	Bail	Plea	Prelim Hearing	Trial or Court Plea	Verdict	Sentence	Other disposition
pr 1 Kevin Green -C44170	9-30-79	262 - Spousal rape 664 - attempted murder 245A - assault with a deadly weapon 259 - murder	4-18-80	\$20,000	not guilty	4-7-80 July initial. 6-18-80	not guilty	guilty - 2nd degree murder 2nd degree attempted murder, assault with a deadly weapon	11-7-80 15 years to life in state prison.	spousal rape 262 dropped because crime occurred before law went into effect
pr 2 David William Waddingham #74060	11-5-79	207 - kidnapping 288 - anal copulation 644 & 286 - attempt to sodomize via force	1-3-80	\$10,000	no contest	to 256 - false imprisonment infliction of traumatic injury on wife			5-2-80 1 year in county jail, 3 years probation, psychiatric counseling over probation period. work furlough recommended	
pr 3 Lupe Garcia Renalado #26586	12-19-79	207 - kidnapping 211 - robbery 203 - mayhem 245A - assault with a deadly weapon	1-21-80	\$7,250	guilty to kidnapping and mayhem	1-4-80 hearing 1-21-80 not guilty Burrton of insanity 4-21-80 5-19-80	no trial because of plea		5-19-80 7 years in state prison (153 days credited for time in jail), psychiatric counseling. The defendant is serving time for kidnapping because it is a worse crime than mayhem. The mayhem crime will go into effect if kidnap charge ever dropped because 657 - court cannot double punish.	defendant could not be charged or arrested on spousal rape because the crime happened before the law was passed.

code: pr - pre-trial
C - conviction 262
P - Plea Bargain
L - guilty of lesser charges
D - case dropped
N - NO ARREST
M - wife murdered
AQ - Acquittal
A - ATTEMPTED RAPE

Age	Wife's Name	Marital Status	Crime	Place	Children	Race/Ethnicity	Occupations	Residence	How Incident Ended
21	Diana - 20	together	Victim 2 weeks overdue with first child. When she resisted his advances he hit her head with large metal key container- raped her.	their apt.	none	♂ white ♀ white	♂ marine ♀ house wife	Tustin; Orange Co.	Green called ambulance when victim became comatose. Infant delivered dead by Caesarean due to victim's injuries. She remained in coma 1 month, memory regained 3 months later at which time Green re-arrested. Victim now aphasic and suffers permanent brain damage.
28	Victoria- 31	separated 2 months	He came to discuss separation, kidnapped her in van, drove to secluded area in Santa Cruz mts. Repeatedly threatened to kill her with gun he claimed in glove compartment. Beat her with belt, raped her- overcame her when she tried escaping, raped her two more times.	van in Santa Cruz mountains	1	♂ white ♀ white	♂ courier ♀ unavail- able	San Jose, Santa Clara Co.	Waddingham eventually dropped her at her home; she called the police.
28	Maria 27	separated 8 months	He picked her up to go to the cinema drove instead to a cornfield. Forcible her to walk four miles through the field nude, raped her, shaved her head, carved swastika on her cheek & cross on hip, covered her with shoe polish & red paint, pulled four teeth and burned her hands	cornfield	not known	♂ mexican-am. ♀ mexican-am.	both farm workers	Yuba City, Sutter Co.	A rancher discovered her in the field the next morning.

	Name	Arrested	Charges	Arraigned Bail	Plea	Atelim. ^{Trial or} Hearing	Court Plea	Verdict	Sentence	Other disposition
d 4	Anonymous	1-5-80	Charges dropped	for unknown reasons						
L 5	Joseph Bray #70954	1-6-80	220 - assault with intent to commit felony 262 - spousal rape 211 - robbery	2-5-80 \$500	not guilty	1-24-80 ^{Jury} trial	not guilty	guilty - misdemeanor assault 240, theft 488	5-15-80 2 years formal probation, \$500 fine plus penalty assessment, \$1,000 reformation to public defender, no contact with victim except through an attorney	BRAY NOT CONVICTED ON 262. 220 ASSAULT CHARGE APPLIES ONLY TO ASSAULT TO COMMIT FELONY SINCE THERE WAS NO LOWER A FEW CHARGES, THE 220 WAS LOWERED TO A MISDEMEANOR ASSAULT (THE 240 CHARGE)
c 6	Frank Martinez #A525411	1-8-80	262 - spousal rape 261 - rape 207 - kidnapping 288A - forcible oral copulation 487.1 - grand theft auto	2-7-80 \$20,000	not guilty	1-23-80 ^{Jury} trial 8-8-80	not guilty	guilty 9-2-80 - 1's counts including spousal rape (see charges) by jury	11-12-80 16 years in state prison approx. 6 or 14 yrs for marital rape charges	THE MARITAL RAPE AND STRANGER RAPE (RAPE) WERE TRIED TOGETHER. THE STRANGER RAPE/ROBBERY CRIMES WERE USUALLY AS THE PRIMARY CHARGE SINCE MARITAL RAPE CARRIES A GREATER PENALTY THAN STRANGER RAPE. THE MARITAL RAPE CHARGE ACCOUNTED FOR APPROXIMATELY 6 OF THE 16 YRS. SENTENCE. THE KIDNAPING CHARGE WAS DROPPED AS IT WAS CONSIDERED TO BE PART OF THE RAPE.
d 7	Roy Lee Rogers	2-12-80	262 - spousal rape	2-11-80	not guilty	2-26-80				WIFE VISITED HUSBAND IN JAIL AND SAID SHE FELT HE HAD LEARNED HIS LESSON AND WOULDN'T HURT HER AGAIN. SHE WAS VERY UNCOOPERATIVE WITH D.A. - REFUSED TO TESTIFY - HUSBAND'S BAIL DROPPED - HE WAS RELEASED. CASE DROPPED BECAUSE OF LACK OF EVIDENCE. THOUGH WIFE HAD PREVIOUSLY STATED SHE Doubted RECONCILIATION, APPARENTLY COUPLE REUNITED AFTER HUSBAND'S RELEASE
pc 8	Albert Beltran #126767	3-10-80	220 - assault 236 - false imprisonment 207 - kidnapping 262 - spousal rape	4-22-80 \$10,000 reduced to \$5,000 exonerated	guilty	5-6-80 hearing	plea bargained (dropped 220 & 207 charges)	6-10-90 30 days county jail, 3 years probation, work furlough.	case plea bargained victim urged judge not to imprison Beltran but to order counseling instead. she commented her opinion was not based on fear.	

Age	Wife's Name	Marital Status	Crime	Place	Children	Race/Ethnicity	Occupations	Residence	How Incident Ended
31	33	separated	argument, rape					Bellflower, Los Angeles	
31	Karen	26 separated 1 month married 5 years	Bray came to victim's home to pick up photographs - argued - 280 lbs Bray threw her (120) onto chair and raped her	her apt.	none	♂ white ♀ white	♂ studying to be a mechanic ♀ unavailable	Chico, Butte Co.	Police in area heard her screaming for help from window and saw her jump through it to ground.
21	Rena	18 separated 4 months married 6 wks prior to living together 5 years.	(wife) stolen Martinez lured victim into van claiming he had a gift for her. Drove around area stopping at intervals to rape wife (4 times). Van had been stolen the day before w/ the woman sales agent abducted for 10 hrs. and raped 4 times by Martinez.	Staten van	none	♂ Mexican am ♀ Mexican am.	♂ unemployed laborer ♀ factory worker	Comona, Los Angeles Co.	Victim managed to slip message to another woman in gas station saying she'd been kidnapped and raped. The woman called police who caught him in van.
25	Edith	20 together married 4 years many separations he beats her several times all kinds of counseling, police interviews, rescribed drugs for his band to "calm him down"	He was watching television, wanted sex, when she resisted he beat her head against floor, tore her clothes with a knife, raped her.	thru apt.	none	♂ Black ♀ Black	♂ unemployed Lake Elsinore ♀ unemployed Riverside Co.		VICTIM'S SISTER, WHO LIVES IN THE SAME APT. BUILDING, HEARD VICTIM'S SCREAMS FROM HER APARTMENT, HELPED VICTIM ESCAPE, AND PHONED THE POLICE.
25	Carmen	24 separated 3 months married 1-20-74 to 1-20-80	Beltran kidnapped her at knife-point from shopping center, drove to rural spot, threatened to kill her, raped her.	country-side in car	none	♂ white ♀ mex am.	♂ member of carpenters union ♀ sales clerk	Hayward, Alameda Co.	Beltran drove her back to shopping center, victim went home and called the police

	Name	Arrested	Charges	Arraigned	Bail	Plea	Trial or Prelim. Hearing	Court Plea	Verdict	Sentence	Other disposition
pc 9	Hughen Watkins #66933	3-17-80	262 spousal rape 286c sodomy 289A - rape with a foreign object	4-7-80	\$1,500 exonerated	not guilty	6-17-80 hearing 7-18-80 defendant entered plea of guilty to 262 (misdemeanor)			9-2-80 guilty to 262, other counts dismissed, 8 months in jail, 3 years formal probation, counseling at discretion of probation officer, must submit to warrant less search of person, vehicle, or residence during parole period. Must submit to chemical testing during parole must refrain wholly from drugs except when prescribed and refrain from alcohol as well as establishments predominantly selling alcohol.	plea bargained
d 10	David Jesse Carter #2555	4-23-80	262 spousal rape 236 false imprisonment	5-19-80	\$15,000 reduced to 5,000	not guilty	5-5-80				case was dropped because DA didn't think victim's testimony was believable she was a heavy drug user - had criminal record - she tried to take child by impersonating an authority, then by threatening with gun a witness at apt. also claimed no rape occurred.
c 11	John A. Chiarpolli #21990	4-27-80	207 - kidnapping 262 spousal rape	4/28/80	\$20,000 reduced to \$5,000	not guilty	5-8-80 hearing	no contest to misdemeanor 262 spousal rape		6-10-80 1 year suspended sentence, 3 years probation, psychiatric counseling, 25 day comm. volunteer work.	trial had been set for jury, then Chiarpolli plead no contest before the Judge

Age	Wife's Name	Marital Status	Crime	Place	Children	Race	Ethnicity	Occupations	Residence	How Incident Ended
24	Catherine 23	together married 3 1/2 years	He raped victim in bedroom of their home with mouth wash bottle twice, then sodomized her	their apt	3	♂ white ♀ white		♂ unemployed ♀ unemployed waitress	Redding, Siskiyou Co.	Victim called police the next day, filed for divorce then went to a women's shelter.
28	Sandra 22	separated 1 month married 5 years	Victim came to his apartment to see children, he pulled her into bathroom where she succumbed out of fear. Husband was on probation on a 242 Battery misdemeanor.	his apt	2	♂ white ♀ white		♀ housewife (believed to be)	Hayward, Alameda Co.	VICTIM WENT TO SHERIFF APT. BAPT. - Victim later received phone call from Carter telling her he would send the Hell's Angels after her if she didn't drop charges. Call made 4/22 FROM SANJIM RITA JAIL. CARTER OF THE TRAINING WIFE WERE THREATS AGAINST HER, BUT AGAINST CHILDREN (ACCORDING TO NEWSPAPER REPORTS). CARTER RECOMMENDED IN COVEY FOR MURKOVIC. HE WAS LAUGHING AND 'MURKOVIC' BY WIFE DURING HER TESTIMONY.
23	Lisa 22	separated 2 weeks	KIDNAP & RAPS. HUSBAND WANTED TO MEET WITH WIFE. Picked her up and took her to a secluded spot where HE RAPED HER.	Van in secluded spot	none	♂ white ♀ white		♂ grocery store employee	Livermore, Alameda Co.	

CALIFORNIA SOCIOLOGICAL CHART
page 3

Name	Arrested	Charges	Arraigned Bail	Plea	Prelim. Hearing	Trial or Court Phase	Verdict	Sentence	Other Disposition
d 12 Michzel Eugene Maggard	5-15-80	220 - assault with intent to commit rape 273.5 - felony wife beating 242 - assault 602 - battery 602 - trespassing	charges dropped by P.A. over wife's objections						WIFE SAID THAT D.A.C. MATTERSON'S DECISION SHOULD BE HEARD HE DID NOT TAKE THE CASE SERIOUSLY.
d 13 Peter Edelbacher	5-28-80 1-8-82 (murder)	262 - spousal rape 259 - murder	held w/o bail muni. 1-25-82 (murder) superior arraigned (murder) 5-24-82 - moved to 6-1-82	not guilty (imp) not guilty (murder)	jury hearing 2-25-81 (murder) prelim 2/1/82 not guilty (murder) not guilty	not guilty not guilty	2-26-81 not guilty	WIFE WAS MURDERED. HUSBAND BEING CHARGED WITH MURDER.	
d 14 Philip Ramirez	6-10-80	261 (2+3) - rape	6-11-80	not guilty	DA. dropped case 11-26-80 when wife stated she did not wish charges pursued - see 12/8/80			REASON UNKNOWN. STATED WOULD PLEAD BATTERY CHARGES. BUT NEVER SIGNED ANY COURT PLEAS. JUDGE STATED "TRADITIONALLY WOMEN HAVE ADVISED THIS ISSUE BY HAVING A HEADACHE." (DURING PLEA HEARING) 8-1-80 3 years in county jail for breaks in probation, psychiatric counseling, protection order issued, 1 year in county jail for breaks and police entered home without a warrant.	
d 15 Joseph Romagnolo	7-15-80	262 - spousal rape 273.5 - inflicting corporal injury on spouse	7-18-80 \$15,000	guilty to battery	HE MADE A DEAL THAT IF HE PLEAD GUILTY TO BATTERY THAT THEY WOULD DROP SPOUSAL RAPE CHARGES.				ALLOWED PLEA BARGAIN because he confessed before being read Miranda rights and police entered home without a warrant.

Age	Wife's Name	Marital Status	Crime	Place	Children	Race/Ethnicity	Occupations	Residence	How Incident Ended
32	Linda Jean	30 separated	tore off victim's nightclothes hit her boyfriend	her apt.		♂ white ♀ white		Westminster, ORANGE Co.	
24	Lela	25 Separated 1 year married 4 1/2 years	Victim raped on two consecutive nights. On second night he broke down door - he claimed he'd forgotten his keys beside victim refusal to let him back in so he broke door	her apt.	1	♂ white ♀ white	♂ works for painting con- tractor ♀ interior decorator	Fresno, Fresno Co.	Victim called police on second night. - 1 month later victim was murdered, shot gun found under husband's bed, Edet backer being sought for questioning.
		18 - Separated wife filed for divorce on day BEFORE THE RAPE	VICTIM WAS SICK THEN RAPE. WIFE AGREED TO HIS BAND COMING OVER TO SIGN PAPER OF DIVORCE PAPER. FRIEND OF WIFE'S UNLAW. THE BAND LEFT, WIFE UNTIL FRIEND DEPARTED INTO FORCED HIS WAY INTO THE HOUSE.	her apt.		♂ mexican-am.	♂ unemployed	Santa Rosa, Sonoma Co.	Ramirez left the apt.
27	Jolene	22 Separated 1 year	Romagnolo asked victim to his apartment to discuss financial matters, once there she was hit then raped	his apt.	2	♂ italian-am. ♀ italian-am	♂ truck driver ♀ housewife	Bakersfield kern Co.	Victim called police on her CB radio in her car - At time of attack Romagnolo was free on \$1500 bail after he had kicked in the door to her apartment, ripped up her furniture and sprayed obscenities on the walls.

	Name	Arrested	Charges	Arraigned	Bail	Plea	Prelim. Hearing	Trial or Verdict	Sentence	Other disposition
PM 16	Gerald Frank Stanley #1323	- never arrested while wife was alive - incident (rape) in July 1980.	7-29-80 262 - Spousal rape - rape by threat 288 - oral copulation 273.5 - felony wife-beating 187 - murder while lying in wait - murder to prevent 459 - burglary 451 - arson.							Stanley arrested 8-27-80, charged with wife's murder and suspect in another murder (of stranger). STANLEY CONVICTED OF KILLING 2ND WIFE. THIRD WIFE DISAPPEARED AND HAS NOT BEEN FOUND. Buried Downside Home (4th wife).
AQ 17	John Beglin #C-4559B	9-12-80	262 - Spousal rape	\$2,500	not guilty	not guilty	jury trial 2-17-81 mistrial jury trial 5-11-81 acquitted	not guilty deadlock		Beglin filed suit against county for fabricating evidence (dis-missed) 3 years in prison plea-bargained.
PC 18	Timothy Liebert # 261707-1	Aug. 29, 1980	262 - Spousal rape 289 - rape with a foreign object	10-22-80 \$4000	1-7-81 guilty to spousal rape dropped 20A	11-10-80	waived hearing on 3-26-81 (1-2-81)	no contest To 262 (misdemeanor)		
PC 19	Emil Gabriel #10573-C	10-29-80	262A - Spousal rape 1647 - assault with a deadly weapon 273.5 - assault	12-9-80	O.R. not guilty	waived hearing on 3-26-81 (1-2-81)	no contest To 262 (misdemeanor)			5-5-81 5 years suspended sentence, 3 years probation, psychiatric counseling. Plea bargained out of assault with deadly weapon, corporal punishment & criminal contempt of court order (on wife's insistence that it was not in the child's best interest that they file the safety for him).
PC 20	Maximilian Eddiz Vargas #A-M 20242	11-23-80	262 - Spousal rape 242 Misdemeanor battery	12-9-80 \$2,000	not guilty	1-2-91	Case dismissed, D.A. HEADED WIFE'S DESIRE THAT PROSECUTION SHOULD NOT CONTINUE (REASON UNKNOWN FOR WIFE DECISION)			

	Name	Arrested	Charges	Arraigned	Bail	Plea	Prelm. Hearing	Trial or Court	Verdict	Sentence	Other disposition
21 PC	Thor Hawkell Asgardson #6-39782	12-15-80	262 - spousal rape	12-17-80	none out on his own rec.	guilty			There was never a hearing because the 1st date was cancelled for some unknown reason as with the second date for a hearing. He pleaded guilty between 2nd & 3rd hearing. The plea bargaining brought his felony down to a misdemeanor.	3-26-81 2 years with summary probation, 60 days minimum in jail.	Plea-bargain from felony to misde- meanor.
22 PL	Paul Norman Munday #4-3113	11-24-80	2x 288a - oral copulation 262 - spousal rape 207 - kidnapping	11-26-80	no bail	not guilty	2-19-81 hearing 3-5-81	no contest to 242 - misdemeanor bittery	Guilty	6 months suspended to court probation and counseling	Plea bargained - 21 preliminary charges changed to 288A from C, and 262 dropped to 242. At hearing plead no contest to 242 if other charge dropped. (misd- emeanor assault - wife pregnant - RL - cancelled. As per 21100 262 did happen and oral co
D 23	William Shacklett C-0132899	12-30-80	2 counts 289 - rape with a foreign object 245A - assault with a deadly weapon	1-19-81	\$13,000	not guilty	2-11-81	case dismissed;	DA did not proceed w/case as wife did not want prosecution to continue. When the case got to court, she refused to testify. It was not taken post the prelim. hearing. wife described by D.A. as strong- willed. wife embarrassed & uncomfort- able with trial, which she felt was not handled with total legitimacy.		Victim is now back with defend- er.
N 24	Emanuel Gonzales	no arrest	Wife would not press charges despite D.A.'s urging, reason unknown.								
d 25	Anonymous	arrest date unknown	Woman reported estranged husband beat and raped her, charges dropped for unknown reason.								

Age	Wife's Name	Marital Status	Crime	Place	Children	Race/Ethnicity	Occupations	Residence	How Incident Ended
29	Julie	25 separated	rape, no weapons	his home	none	♂ white ♀ white	♂ sporadic work ♀ nurse (student?)	Eureka, Humboldt Co.	Victim waited a week before reporting rape.
21	Brenda	20 separated	D.A. office said she was kidnapped from alpha beta grocery store then taken to house where raped.	Bus Station (center) husband's house		♂ white ♀ white	♂ unemployed (housewife) ♀ housewife	Livermore, Alameda Co.	Victim ran from house where rape occurred to her own home. Munday followed, broke window and kicked in door then left when crowd gathered as a result of the commotion. WIFE CALLED POLICE.
31	Kathy	28 together married 5 years	He came to bed after drinking and watching pornographic tapes; said he had some "new ideas." First voluntary sex, then became angry, raped her with crowbar and tire iron, slashed her breasts with crowbar and poured brandy on her wounds, struck her with belt.	their home (bedroom & garage) floor	1	♂ white ♀ white	♂ concert promoter ♀ housewife	San Jose, Santa Clara Co.	Victim escaped to neighbors and phoned police when he freed her to feed the baby. Was hospitalized several days for gashes and internal bleeding.
35		33 together	Victim claimed a history of Gonzales forcing her to have 5 way sex with strangers and beating her	their home	3	♂ mexican-am ♀ mexican-am		East Los Angeles, Los Angeles, Co.	wife left house & went to police.
		36 separated married 7 years	Victim beat and raped by estranged husband	her apt.				Fresno, Fresno Co.	

	Name	Arrested	Charges	Arraigned	Bail	Plea	Prelim. Hearing	Trial or Court Plea	Verdict	Sentence	Other disposition
J 28	Anonymous	(no arrest)	Woman reported kidnapping, beating, and rape - husband denied all three, charges never made.								
L 29	Arturo Arroyo #5196	1-29-81	262A - spousal rape	3-3-81	\$3,000	not guilty		case dropped due to wife's wishes.		She said "I don't want to go to court, I don't want to take off any more time from my job and he (the defendant) said he would leave me alone."	
C 28	Victor Burnham #10549	12-17-81	4x 262 - spousal rape 245A - assaulting and threatening with firearm 289 - assault with foreign object (dog) 12020 - possession of machine gun. (ALSO CHARGED SEP. NEARLY FOR LEWD AND LASCIVIOUS ACTS AGAINST A MINOR (14 YEAR OLD GIRL))	3-23-81	\$50,000 reduced to \$25,000 then to \$30,000 judge refused to release Burnham because of previous conviction of same crime.	not guilty	3-12-81 jury trial 5-26-81	not guilty (pled no contest to gun possession charge during trial)	guilty 6-4-81 : 4 counts spousal rape, bestiality, assault with intent to commit great bodily harm (qui change mood to separate trial/sentencing)	Suspended sentence. Sent to California Board of Correction for 90 days observation. 7-22-81. DETERMINED HE SHOULD GO TO THURSDAY (M. MENTAL INSTITUTION) C-13 YES.	Burnham has 3 prior convictions: 1971 - misdemeanor child abuse 1961 - assault and battery 1971 - illegal transportation of lion cub. 2 previous wives testified of under treatment during the marriage to be insane.
PL 29	Marvin Noble #21005	3-20-81	497 - entering residence with intent to commit felony 12020 - possession of a weapon 3x 236 - false imprisonment 262 - spousal rape 417B - exhibiting firearm in a threatening manner	3-26-81	\$5,000	not guilty	4-23-81	5-8-81 guilty - suggesting insanity (had been sent to Napa during incarceration pending trial)	guilty on weapons and false imprisonment charges.	4 years in Alhambra	7/81 - bargained - 2 dropped, Maximum Sentence on charges 5 yrs. SPOUSAL RAPE CHARGES WERE ALLOWED DROPPED BECAUSE OF GEN'S HOSTILITY/REBELLION AGAINST WIFE. SHE IS WHITE. BUT BOTH HUSBAND AND LOVER (WHO SHE WAS PREGNANT BY) ARE BLACK.

Age	Wife's Name	Marital Status	Crime	Place	Children	Race/Ethnicity	Occupations	Residence	How Incident Ended
20		Separated 1 month	kidnapped wife from bar, drove to his apt., beat and raped her	his apt.				Fresno, Fresno Co.	
24	Rose Mary	28 separated 10 months	Victim returned to home with daughter following father's funeral. Arron forced himself into car and drove to a house where they were forced to remain - at 11:00 AM mother and daughter were to sleep mother awakened to his advances. When she resisted, he beat, bit, and raped her. *(ROSE MARY'S FATHER'S FUNERAL).	home. 404 S. A. St.	2	♂ mexican-am ♀ mexican-am	♂ unemployed (alcoholic) ♀ secretary (Head Suter program)	Madera, Madera Co.	Victim was finally able to make a phone call for help to a friend at 5:00 AM.
35	Rebecca	20 together married 2 1/2 yrs	Victim repeatedly subjected to forced sex with Burnham, other men, and dogs. She reported last incident when he raped, choked her and forced her to have sex with stranger and a dog. all 3 wives testified to having been hit, choked, kicked, raped, bit, threatened w/ death w/ gunpoint, and sexually abused (including rape from dog bites). Sexual Assault w/ Inj. Force. (S. 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000)	their home	1	♂ white ♀ white	♂ unemployed construction worker ♀ housewife	Merced, Merced Co.	Victim fled to battered women's shelter, then went to Sheriff's department, AFTER BEING BEATEN BY BURNHAM. WIFE TESTIFIED THAT THERE WERE URGENT THREATS AGAINST HER & HER CHILD, CREATING A "P.O.L. SITUATION" (NOTE BY D. A.). CHILD HELD HOSTAGE AT SUNNYVALE DURING FORCED SEX EPISODES. IN ALL 3 MARRIAGES, WIFE KEPT COMPLETELY LOGGED. BURNHAM STATED UNPLEASANT THINGS WERE SAID / BECAUSE OF CHILD'S BEHAVIOR (FOR USE THE) WHEN WIFE WAS RETURNING A
27	Sophia Pauline	24 separated	broke into wife's home with sawed off shotgun then raped wife. When she escaped he held son as hostage.	her home	2	♂ black ♀ white	♂ railroad worker ♀ housewife	Ukiah, Mendocino Co.	WIFE TESTIFIED BURNHAM'S SEXUAL TENDENCIES BEING THAT HE FAILED TO GET HIS PERMANENT APPOINTMENT OF MARRIAGE. SHE TESTIFIED THAT HE FOUL UP HIS MARRIAGE A FEW IN THE MIDDLE THAT THE OTHER MARRIAGES WOULD NOT BE FORSAKE. BURNHAM THOUGHT THAT IF HIS WIFE WAS PREGNANT THAT HE WOULD NOT BE IMPROVED THIS WAS IN 1967. BURNHAM TESTIFIED HIS USUAL LIFESTYLE "BEING UP THE BOTTOM OF A STRAIGHT SEXUAL MARRIAGE / BECAUSE OF CHILD'S BEHAVIOR" (FOR USE THE)

	NAME	ARRESTED	CHARGES	ARRIVAL	BAIL	PLEA	TRIAL OR PRE-HEARING	COURT PLAN	VERDICT	SENTENCE	OTHER DISPOSITION	
D 30	KIRK LAYTON #55170	7-1-81	262. SPOUSAL RAPE		\$6,000				CASE DISMISSED BECAUSE WIFE DIDN'T SHOW UP AT TRIAL (LACK OF CORPUS DELICTI). - DEFENDANT IS TO SURRENDER INTO CUSTODY IF WIFE RETURNS AND REFILES.			
D31	ANON. (D.A. LISA FARIA)	7-18-81	262. SPOUSAL RAPE 288A DEAL. COP. 286a Summary		\$14,000	NOT GUILTY	8/6/81		WIFE STATED ON WITNESS STAND THAT SHE DID NOT WANT TO PRESS CHARGES - CHARGES DROPPED FOR LACK OF COMPLAINT BY WITNESS			
D32	JOE CREEER (D.A. CW. VOHL)	7-1-81	262 SPOUSAL RAPE						CHARGES DISMISSED - BELIEVED WIFE ASKED THAT DA. DROP CHARGES. REASON UNKNOWN.			
C 33	DANIEL HERMICH #CRN 7008		262 SPOUSAL RAPE		0.2.	NOT GUILTY	HEARING 9-16-81		GUILTY	CONVICTED MAY 1982 222	6-14-81 4 YRS PROBATION AND \$2,000.00 FINE	CASE SET FOR JURY! HEARINGS PLEA GUILTY (BEFORE JURY) BEFORE JURY SELECTION
PL 34	FRANK RUSSELL KEMACHEK #A55300 CRV 7183	9-19-81 (MURKIN 9-1-81)	262. SPOUSAL RAPE 146A. ASSAULT WITH A DEADLY WEAPON	9-16-81	\$20,000 (DEPENDENT ARREST FOR H.O. RELEASE TO WORK THROUGH TO SUNNY BEACH AT CAMP ARDELTON)			PLEA BARGAIN TO 245 ASSAULT			10-20-81 - - LIVE IN PSYCHIATRIC COUNSELING - 4 YEARS PROBATION - 116 DAYS COUNTY COUNTY JAIL (112 DAYS CREDITED DURING TRIAL).	CASE DISMISSED (ADMITTED OFFENSE & SURRENDERED ALREADY DROPPED) - BATTERY WIFE'S SUGGESTION - WIFE'S COUNSELLING BETTER THAN JAIL.
N35	ANON (D.A. D.A. THE MOORE)	INCOMP ON 6-11-81 (NO ARREST)	UNDER INVESTIGATION FOR SPOUSAL RAPE. VICTIM DECLINED TO PRESS CRIMINAL CHARGES						VICTIM DECLINED TO PRESS CRIMINAL COMPLAINT			

AGE	WIFE'S NAME	MARRIAGE STATUS	CRIME	PLACE	CHILDREN	RACE / ETHNICITY	OCCUPATIONS	RESIDENCE	HOW INCIDENT ENDED
22	TERRY - 22	SEPARATED	HUSBAND COURT ORDER TO STAY AWAY FROM WIFE ENTERED THROUGH WINDOW OF WIFE'S HOUSE HIT WIFE IN FACE WITH FIST AND SHOE THREW WIFE AND SOLE \$20.00	WIFE'S HOME	none	BORN WHITE	unavailable	FRESNO	HUSBAND LEFT - WIFE CALLED POLICE
28	-25	SEPARATED	HUSBAND UNDER RESTRAINING ORDER TO STAY AWAY FROM WIFE EXCEPT ONE DAY/WEEK TO VISIT DAUGHTER. CRIMED ENTRANCE TO HOUSE ON PORCH OF VISITING DAUGHTER. STRUCK WIFE REPEATEDLY WITH HIS FIST. DROPPED HER UPSTAIRS AND THREATENED TO STRANGLE HER WITH TIGHTY HOLE. BARELY CHASED RADING FROM MAY 22, 1981	WIFE'S HOME	1 DAUGHTER			Union City & ALAMEDA - CA (BORN ALAMEDA COUNTY)	WIFE CALLED POLICE
37	-25	SEPARATED	SPONSORAL RAPE	WIFE'S HOME				FRESNO (CA)	HUSBAND FLED
39	SUZANNE - 39	SEPARATED FILED FOR DIVORCE	RAN WIFE OFF SIDE OF ROAD TOOK HER BACK TO HIS HOUSE. CHOKED HER (UNCONSCIOUS) THREE TIMES, THEN RATED HER.	HUSBAND'S HOME	none	BORN WHITE	♀ - HOME-DRINKING SALES	VISTA, SAN DIEGO (BORN)	HUSBAND APPLICATED, WIFE GARBLED HER CLOTHES AND DROVE TO GAS STATION. CALLED FRIENDS FOR HELP.
31	MALIA - 46	MARRIED 6 MO. (WALKING ON SEPARATION)	THREATENED WIFE WITH PIECE OF GLASS WIFE WALK WITH HUSBAND TO DISCUSS FINANCES TAPPED IN CAR IN FRONT OF HOME.	CAR (ON STREET IN FRONT OF HOME).	2 BY WIFE'S FAVORITE MAGAZINE	BORN WHITE	♂ - MILITARY (MARINE) ♀ - HOUSEWIFE	BORN OCEANSIDE, NORTH SAN DIEGO COUNTY	WIFE CALLED POLICE HUSBAND HAD BEEN JAILED ON ASSAULT BEFORE.
20	SEPARATED	SEPARATED	HUSBAND FORCED WAY INTO WIFE'S APARTMENT. THREATENED WIFE'S FRIEND AND SUBMISSION DROPPED WIFE IN HEAD AND SHOULDER AREAS. THREATENED TO KIDNAP WIFE IF SHE DIDN'T HAVE SEX WITH HIM. RAPE WIFE IN FRONT OF THE PORCH.	WIFE'S HOME - NORTH				9 WEST PITTSBURGH, CENTER COSTA COUNTY	HUSBAND LEFT AND RETURNED SEVERAL HOURS LATER. TOOK WIFE TO HIS APARTMENT AND BEGGED HER NOT TO LEAVE HIM. VICTIM AND BOYFRIEND (EVIDENTLY THE 'FRIEND' IN THE APARTMENT) ARE LEAVING THE AREA. BOYFRIEND AND NEIGHBORS WERE TOO FRIGHTENED TO CALL THE POLICE - DEFENDANT IS 6'2", 165 lbs. DR. TRYING TO REMOVE DEFENDANT'S HYPERTENSION.

CALIFORNIA SOCIOLOGICAL CHART

C 38

NAME	ARRESTED	CHARGES	ARRAIGN	BAIL	PLEA	TRIAL OR Preliminary hearing	COURT Plea	VERDICT	SENTENCE	OTHER DIS POSITION
ANDREW JACKSON ARMSTEAD #6119141	7-2-81 (inhouse)	245- ASSAULT w/ A DEADLY WEAPON w/ ENHANCEMENT 1202.55 288A - 2 COUNTS FORCED ORAL COBULATION 262 SPUSAL RAPE WITH 1202.55 NO. 21- RECON w/ GUN 665- FELONY COMMITTED BY SOMEONE WHO STOOD A PERSON SENTENCE	7/6/81 (municipal) 8/20/81 (superior)	None (PAROLE HOLD)	Not Guilty	PRE-Lim - 8/81 HEARING - 10-15-81	Not Guilty (SAID CONSPIRACY)	Guilty on 3 counts (By Jury) 245, 288(A), 262 (felony) Guilty on 2 counts (By Judge) 120.21 and 665	11-8-81 - 13 yrs 11 yrs - forced oral copulation - with gun. (81 shot gun) 2 yrs - 262 spusal rape, felony 1 yr - committing felony after serving prison sentence STAYED SENTENCES ON ASSAULT WITH A DEADLY WEAPON.	Appen: is likely (Jury convinced of rape when wife testified to "that feeling" when the gun touched her filling up in her mouth.

AQ 38

ANDREW RUSS #CR 56386	INCIDENTS: 9-15-81 ARREST: 7-11-81	262- 2 COUNTS OF SPUSAL RAPE	11-23-81	O.R. BY BOTH MUNICIPAL AND SUPERIOR COURT	Not Guilty (MAY)	HEARING: 2-17-82 (will decide 11 July at THAT TIME) PRE-Lim - 11-12-81 - JURY TRIAL -	not guilty	NOT GUILTY		DA SPOKE TO SEVERAL JAMES. MOST FELT THAT THE RAB SHITITIONS THAT MARITAL RAPE OCCURRED, BUT COULDN'T DETERMINE - BEYOND A REASONABLE DOUBT, PICTURES OF BRUISES/ SCATHES SUBMITTED. NO MEDICAL EXAM, AS WIFE TRESSED CHARGES 1 DAY AFTER RAPE.
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A 38

ALFRED CLAUDE HARPER #146567 (Municipal) #H 3957 (Superior)	10-21-81 (two INCIDENTS: 10-17-81 and 10-21-81)	220- Attempted Rape (municipal) changed to 262- 2 counts (1-Attempted 1-completed) in Superior	12-14-81 (Superior) 10-21-81 (municipal)	\$5,000	NOT GUILTY	2-26-82 motion to dismiss evidence 12-1-81- pre-lim 3-26-82- pre-trial 4-21-82- TRIAL	Guilty (FEE- TRIAL)	Pled Guilty ON 1 COUNT ATTEMPTED (262) RAPE (FELONY)	5-11-82 2 YRS PROBATION \$500 FINE 4200 PENALTY ASSIGNMENT \$20 GVT. FEE STARTS PAYMENT JUNE 16, 1982 @ \$75/mo.	
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AGE	WIFE'S NAME - AGE	MARITAL STATUS	CRIME	PLACE	CHILDREN	RACE/ETHNICITY	OCCUPATIONS	RESIDENCE	HOW INCIDENT ENDED
27	DORIS Ann 24	FILED FOR DIVORCE THE DAY BEFORE THE RAPE	ENTERED WIFE'S RESI- DENCE AT 3AM WITH GUN. PLACED GUN IN MOUTH OF WIFE AND THREATENED TO KILL HER IF SHE DIDN'T COMPLY.	THEIR HOME	2 - ONE FROM THIS MARRIAGE ONE HERE FROM PREVIOUS MARRIAGE	BOTH BLACK	♂ - CHEMICALLY UNEMPLOYED 12 MONTHS OUT OF PRISON AT TIME OF INCIDENT	SACRAMENTO (City: Co.)	HUSBAND FELL ASLEEP. WIFE UNPLUGGED BEDROOM TELEPHONE SO HE COULD NOT LISTEN IN. CALLED SISTER, WHO CALLED THEIR MOTHER, WHO CALLED POLICE.
31	SHIRLEY ANN 26	SEPARATED (PETITION OF DissOLUTION 10-22-80) WIFE LEFT IN AUG. 1981 DissOLUTION IS BELIEVED TO HAVE BEEN COMPLETED	PICKED WIFE UP AT HER PLACE OF WORK AND TOOK HER, OVER HER OBJECTIONS, TO HIS HOUSE (HER FORMER RESIDENCE) OVERPOWERED HER AND Raped HER. HOW PERHAPS OF DISCUSSING DIVORCE.	HIS HOME	None	BOTH BLACK	♂ - HAD BEEN UN- EMPLOYED. JUST STARTED A SALES- RELATED JOB RIGHT BEFORE RAPE. ♀ - SECRETARY (LAW- RELATED).	SAN DIEGO (City: Co.)	CONTACTED NEIGHBOR - RAN OUT OF HOUSE AND STARTED KNOCKING ON NEIGHBORS DOORS. SEVERAL WENT HOME. SOMEONE FINALLY LET HER IN. WIFE CALLED FRIEND, WHO PICKED HER UP AND HAD HER. THEN, WIFE CALLED POLICE FROM FRIENDS HOUSE.
48	KARL EN- 83	SEPARATED (9-28-81)	10-21 - WIFE AWAKE TO FIND HUSBAND ON HER BED. HE MADE BEING ADVANCES WHICH WERE REFUSED BY WIFE. TWO DAUGHTERS WERE AWAKENED AND ENTERED BEDROOM. HUSBAND YELLED AT THEM TO GET UP, THAT HE WAS MAKING LOVE TO THE MOTHER. PENETRATED WIFE WHO THEN STOPPED STRUGGLING TO AVOID BEING Raped. 10-17 - COMPLETED RAPE. HUSBAND ENTERED HALL - BEGAN CREEP OUT OF BED AND PULLED HER BY THE HAIR OF HER HAIR. SHE SAW HIS HANDS ON HER AND SHE WOULD DO WHAT HE TOLD HER. THIS INCIDENT WAS NOT REPORTED AT THE TIME AS WIFE HAD HER PERIOD AND WAS TOO EMBARRASSED TO BE EXAMINED. SHE FELT THAT WITH OUT THIS MEDICAL EVIDENCE THERE WOULDN'T BE ENOUGH EVIDENCE TO BRING THE RAPE CHARGE.	WIFE'S HOUSE	2 daughters (10 & 13)	BOTH WHITE	♂ - SELF-EMPLOYED "ENGINEER" - INVESTOR, REAL ESTATE... ♀ - BETWEEN JOBS @ THE NOW - RECEPTIONIST	BOTH HAYWARD, ALAMEDA COUNTY.	POLICE ARRIVED (APPARENTLY CALLED BY DAUGHTER?)

CALIFORNIA SOCIOLOGICAL CHART

39
PC

D 40

PC 41

Name	Arrested	Charges	Arraign	Bail	Plea	Trial or Pre-hearing	Court plea	Verdict	Sentence	Other disposition
GREGORY DEAN JACKSON	incident Aug 27, 1981 (also date of arrest & crim. complaint)	262 Spousal Rape (2 counts) felony 288a - Oral Cop.	8-31-81 (municip.) 9-28-81 (superior)	\$5,000	NO CONTEST (11/17/81)	Pre-Lim - 9-14-81		[Plea bargain] TO FELLOW 262 FOR DROPPING 288 ORAL COP. CHARGE	Dec 15, 1981 1 yr. county jail (AS CONDITION OF PROBATION)	JACKSON STATED HE HAD BEEN PLANNING TO MOVE TO ALABAMA, WHERE HE HOPED HIS WIFE WOULD JOIN HIM TO THE JUDGE Plead to no contest in exchange for dropping 288 (oral cop.)
Andrew L. Dawalog	12-9-81	262 - spousal rape 373.5 wife beating	WIFE PROMISED (HUSBAND) NOT TO PROSECUTE	MADE NOT TO PAY TO	DEAL WITH ANNOY WIFE AND PLEA	HUSBAND/D.A. IN EXCHANGE FOR TO A BASE OUT	HUSBAND HAD DROPPED OFF STATE	LEFT STATE AND PENDING THE CHARGES		DIVORCE PROCEEDINGS UNDERWAY.
KENNETH SCOTT ELROD	10-81	262 - 2 counts felony spousal rape 207 - felony kid-napping	11-25-81	\$50,000	NOT GUILTY (11-30-81)	THE TRIAL 1/1/82 Pre-Lim - 1/1/82	NO CO. CONFERENCE NO CONTEST TO 262 (MISDEMEANOR)	[PLEA - BARGAIN]	3-22-82 8mos suspended sentence (county jail if violate probation) 18 mos. formal probation counselling w/ psychologist & marriage counsellor	PLEA - BARGAIN - MISDEMEANOR 262 TO DROP 207 & 262; lowered other count 262 to misdemeanor. Wife refused to testify. BELIEVED REASSURED BY FAMILY.

C 42

NAME	ARRESTED	CHARGES	ARRAIGN	BAIL	PLEA	TRIAL OR PRE-HEARING	COURT PLEA	VERDICT	SENTENCE	OTHER DISPOSITION
MICHAEL RODRIGUES 38F261 (municip) C10907 (Superior)	12-2-81	262- Spousal Rape 207- KIDNAP 664/288A(1)-AT-TEMPTED OERL COP.	1-20-82 (municip)	\$100,000	NOT GUILTY	Pre-Lim - 3-24-82 TRIAL: 4-5-82; 4-7-82	NOT GUILTY	GUILTY - FELONY 262	4-14-82 5 YRS. Formal Probation 1 YR. COUNTY JAIL.	

PC 43

GERALD JOHNSON # 107121	11-28-81	245(a) - 2 counts ASSAULT w/ A DANGEROUS WEAPON 262(a) - Spousal rape 12022.5 - ENHANCEMENT (GUN)	2-8-82 (Sup. Cov.)	\$13,500	NOT GUILTY	Pre-Lim: 3-24-82 TRIAL: 5-27-82		PLEAD GUILTY TO 262 ON 3/21/82 (felony)	4/22/82 3 YEARS STATE PRISON	
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BL 44

RODRIGIO RYES (AKA LUIS) # 107007	complaint 10/14/81 (warrant issued 11-24-81. Busted 11-30-81) rape occurred 11-6-81	262 - 2 counts Spousal rape 457 - burglary 245(a) - assault w/ 12022.0 enhance. (knife). 288A(2) - 2 counts forced oral cop. 4 enhance. 12022.0 (knife)	1-26-82 (sup).	released on \$2,500	Not guilty	pre-trial 4/28/82 continued to pre-trial 4-18-82 MUN TO: PRE TRIAL: 5-6-82 TRIAL: 5-10-82 reset to: pre-trial 6/11/82 TRIAL: 7/12/82 reset to: pre-trial 8-25-82 TRIAL: 8-30-82		changed plea before trial. PLED GUILTY TO 245a. DROPPED 262, 288, 457.	10-4-82 SUSPENDED SENTENCE. 3 YRS. PROBATION	DEFENDANT REQUESTED PLEA BARGAINING, CONDITIONS - ORIGINALLY, LATER, PLEA-BARGAIN ACCEPTED - ASSAULT FOR DROPPING; 262, BURGLARY; FORCED ORAL COP. AS THE TRIAL APPROACHED, THE EVIDENCE WAS GETTING BETTER FOR LUIE. HE HOWEVER WAS GETTING SCARED. OFFERED ONE. PLEA-BARGAIN TO LUCY/DA DA DIDN'T WANT IT, BUT AGREED TO VICTIM'S DESIRES.
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DOCTOR WHO DID MEDICAL
EXAM BEGAN SAYING HIS
OPINION OF UP OF
FORCE WAS MORE SUBJECTIVE
THAN OBJECTIVE. ALSO, LUIE MADE
STATEMENTS TO HER SOCIAL
WORKER, WHO HAS AN MSW, NOT
A PH.D. SHE SAID IT WOULD BE
DIFFICULT, BUT THE RECORDS SHE
MAINTAINED WERE NOT RECEIVED
UNTIL THE 10th AND SHE DID NOT
KNOW IF LUIE HAD REQUESTED
A PLEA-BARGAIN.

AGE	WIFE'S NAME/AGE	MARITAL STATUS	CRIME	PLACE	CHILDREN	RACE/ETHNICITY	OCCUPATIONS	RESIDENCE	HOW INCIDENT ENDED
35	ADRIA-22	SEPARATED	BROKE DOWN DOOR OF WIFE'S HOUSE (IN FRONT OF 2 CHILDREN (BABYSITTER), SLAPPED WIFE AGAIN AND PULLED HER IN WITH INTO TRUCK. TOOK HER TO A ROOM IN A HOUSE WHICH HE RENTED. TOOK OFF HER CLOTHES. THREATENED TO "BLAW YOU AND THE POLICE AWAY IF YOU CALL THEM". RAPED WIFE. WIFE ATTEMPTED TO ESCAPE. PULLED HER BACK INTO ROOM. ATTEMPTED TO FORCE ORAL COIT. HAD WIFE FOR SEVERAL HOURS, THEN HE LEFT IN THE TRUCK.	HUSBAND'S RENTED ROOM	2 Boys (2, 4)	M. Mex-Am. F. WHITE	F. Homemaker	BOTH REDWOOD CITY, SAN MATEO COUNTY	HUSBAND DROVE OFF AFTER RAPE AND TOLD WIFE TO GET OUT OF HIS APARTMENT. WIFE CALLED POLICE A FEW DAYS AFTER INCIDENT. SAID DELAYED CALLING BECAUSE WAS AFRAID HUSBAND WOULD HURT HER.
24	ROSE 24	DEPARTED	HUSBAND WAITING FOR WIFE AT BUS STOP NEAR HER HOUSE. WIFE TRIED TO RUN AWAY. HUSBAND PULLED HAND GUN ON HER AND ORDERED WIFE TO KEEP WALKING. WHEN THEY REACHED A DUNGEON AREA, FORCED WIFE INTO BEHAVIOR AND MADE HER UNDOSS WIFE COMPLIANT, FORCING HER TO GO AWAY. WIFE WAS THEN RAPED WITH GUN HELD TO HER HEAD. HUSBAND REMOVED SOME ITEMS FROM WIFE'S PURSE, THEN LEFT.	BURBANK NEAR WIFE'S HOUSE	NONE	BOTH Black		SAN FRANCISCO (CITY; COUNTY).	WIFE WALKED HOME AFTER HUSBAND LEFT AND CALLED POLICE, GIVING EXTENDED HUSBAND'S ADDRESS.
245	LUCY 42 SAMUEZ	SEPARATED (Dissolution Proceedings in process) 27 YEARS MARRIAGE	ENTERED W/KEY, BUT EVIDENTLY DAMAGED LOCK. SHE TRIED TO STOP HIM, BUT HE THREATENED HER W/ A KNIFE. RAPE, HER LOCAL COP, ETC.	1112 AVE.	5 (4 ARE OLDER AND NOT LIVING AT HOME) 1, 4yr old son (WIFE CURRENTLY HAS CUSTODY, BUT IS IN DISPUTE)	BOTH Puerto Rican	M employed, but unsure in what P unemployed	both S.F.	HUSBAND LEFT. WIFE CALLED WOMEN INC., WHO TOOK HER TO A SEXUAL TRAUMA CENTER. FROM THERE, SHE CALLED THE POLICE. [VICTIM WAS INTERVIEWED BY BBC ON A NEWS PROGRAM SPECIAL INVESTIGATING THE EXPERIENCE OF "RAPE VICTIMS"]

Name	Arrested	Charges	Arraign	Bail	Plea	Trial or Pre-hearing	Court plea	Verdict	Sentence	Other disposition
45 PC Kenneth Barnett	1981 Dec. 10 - date of arrest; 100- warrant Dec. 23 - crim. complaint. Would have been arrested earlier, but had to opt evidence.	262A (2 counts) Burglary - 459 286C - sodomy 288a(C) forcible oral copulation	Jan. 7 82	filed no indicators	Not guilty	Pre-trim. March TRIAL - 6-28-82 continued to: November 1, 1982 Continued to: Feb 7, 1983	NOT GUILTY - CHANGED TO GUILTY at 2nd count of 262	GUILTY AS PLED.	DIAGNOSTIC STUDY TO BE DONE BEFORE SENTENCING, 6-9-83	
46 PC William Cuerns OLDHAM # 82777	2-28-82	262 - rape 245 - assault w/ a deadly weapon 236 - false imprisonment 148 - resisting arrest	3-4-82	Denial - held in custody	NOT GUILTY charged to guilty	3-19 pre-hearing (municip.) 3-27 pre-hearing. 5-10 - pre-trial 5-18 - trial - moved to 6-14 - PRETRIAL 6-21 - TRIAL	GUILTY (6-25)	guilty (by plea) to 262 and 245	7-27 MOVED to 8-25 5 YRS STATE PRISON	PLEA-PROGAM!! Dropped resisting arrest and false imprisonment charges in exchange for guilty plea.
47 PC Miguel Esquivel # 136815	May 14th, 1982	262 - Spousal Rape 1361 - Disturbance Int. 207 - Kidnapping 273.5 - BATTERY ON SPOUSE	5-7-81	420,000	NOT GUILTY	Pre-Liminary 5-21-81 5-18-81 6-21-81	NOT GUILTY CHANGED TO MURDER ON CONTEST ON 9-2-81	[TRIP GUILTY] felony rape	4-13-82 5 YRS. STATE PRISON (3 for Rape; 2 for gun)	Probation Dept. DIAGNOSTIC CENTER, PROBATION, # 2 RECOMMENDATION ALL RECOMMENDATIONS TO PROBATION / DETOUR. ATTOR. "BASICALLY NON-VIOLENT EXCEPT TOWARDS WIFE"; JUDGE AND D.A. DECIDED VIOLANCE WAS NOT TO BE DISMISSED.

Age	Wife's name	Marital Status	Crime	Place	Children	Race/Ethnicity	Occupations	Residence	How Incident Unfolded
7-23 D-36	Katherine	estranged	He came into house in night thru window - they committed men sex conduct, then intercourse, and sodomy. 1 1/2 hr. between rapes - (262)	in her home	1 - very young	M white (?) (check at logs) F white	M - no idea F - just a house- wife possibly employed - self?	Escobedo, San Diego	Medical evidence of sex, some abrasion on chest/neck. He had been physically violent before - so she was fearful... Had to take child to mother's as she didn't want to leave child w/ him - had to get him out of the house - took child to mother's, and self to work. (DA not sure) (?)
31	SUZAN 25	SEPARATED	Raped wife, held her hostage in the bedroom of her home. Fired shot at P's father as he fled house to call police.	in her home	no info available	M - BLACK	M - unemployed F - NOT AVAILABLE	San Jose	1 1/2 HOURS AFT. POLICE ARRIVED AND SURROUNDED HOUSE, ODHAM SURRENDERED.
25	MARY C. 26 #27	SEPARATED	MIGUEL BEAT INTO WIFE'S HOUSE AT 4AM. FORCIBLY TO WALK AT GUNPOINT 3 BLOCKS TO HIS APARTMENT (THEIR PREVIOUS JOINT RESIDENCE). ORDERED WIFE TO UNDO, HIT HER IN FACE W/ PIST, KNUCKLED HER HEAD INTO THE WALL, AND Raped her.	WIFE'S HIS HOME (PREVIOUS JOINT RESIDENCE)	2 CHILDREN (NOT BY MIGUEL)	BOTH HISPANIC (M. MEXICAN, LEGAL ALIEN FOR 12 YEARS)	M - Bush Dry & various "menial" jobs F - at time, working in small factory currently unemployed	Born: SANTA BARBARA	HUSBAND THREATENED TO HURT HER MORE IF SHE CALLED THE POLICE, THEN DROPPED HER OFF AT HER MOTHER'S, WHERE SHE IMMEDIATELY CALLED THE POLICE.

CALIFORNIA SOCIOLOGICAL CHART

NAME	ARRESTED	CHARGES	ARRIGN	BAIL	PLEA	TRIAL OR Pre-Hearing	CRIM. REC.	VERDICT	SENTENCE	OTHER DISPOSITION
48 PL GARY DALE NICHOLS	2-28-82 3-5-82	262A-2 COUNTS CRIMINAL RAPE 245 - BATTERY 459 - BUREGLARY (TRACING INTO HER APP.)	4-13-82	\$5,000 (APP. 1st ARREST) → 10,000 OR 10,500 (APP. 2nd) RELEASED ON O.R. AFTER PLEA-BARGAIN	NOT GUILTY	PRE-LIM. 3-25-82 TRIAL - 6-1-82 NEVER HELD BECAUSE OF CHANGE OF P.I.A.	GUILTY TO ASSAULT W/ A DEADLY WEAPON (HAND) IN EXCHANGE FOR DROPPING 2 RAPE CHARGES & THE BUREGLARY (PLEA-BARGAIN) 5-3-82	(PLEA- BARGAIN)	6-17-82 36 MONTHS PROBATION 106 DAYS (TIME SERVED)	PLEA-BARGAINING AT REQUEST OF WIFE. 262 dropped
49 D JIMMY L. NORMAN	5-13-82 (5-17-82 charges filed)	262A - SIMILAR RAPE 261.2 - RAPE OF CITIZEN THAN WIFE 288A - CRIM. COP	5-17-82 (MUN.)	45,000	NOT GUILTY	5-17-82 PRE-LIM	CHARGES DROPPED BY D.A. WHEN WIFE REFUSED TO TESTIFY. (AFTER WIFE REFUSED TO TESTIFY, OTHER VICTIM ALSO REFUSED SINCE SHE FELT THE CASE WOULD BE WEIGHED (HIS TESTIMONY DOUBTED) - WIFE IS NOW SAYING SHE LHO AND			D.A. GREG NORMAN TALKED HIS WIFE OUT OF TESTIFYING. D.A. TRIED TO TALK TO WIFE AGAIN BUT SHE AVOIDS W/ NORMAN. NORMAN EVIDENTLY FANTASIZED ABOUT MARRIAGE X TIMES, AND APPARENTLY CARRIED OUT HIS BELIEFS. WIFE FELT NORMAN'S TRICKERY IS A "RECU" OF HER ALCOHOLISM. SHE WANTED HIM OUT MISTAKE WIFE, NOT JAIL TIME.
50 C DAN LE ROY VON KROGER	9-2-81 charges filed 9-4-81 (revised)	262A - 2 COUNTS CRIMINAL RAPE 288A - CRIMINAL COP 245 - BATTERY A BATTERY ON A CHILD 1150 - HONORARY PROSECUTION CRIMINAL TRIAL 288A (X)	SUB. CRT. 2-2-82 (10-19-81 in MUN.)	\$21,500	NOT GUILTY	5-3-82 TRIAL 5-10-82 (CRIM. PRE- LIM BEGAN IN 11-81, AND WAS CONTINUED THROUGH MAY 1982)	NOT GUILTY	GUILTY ON 5-10-82 OF 6 COUNTS: 2 sexual rape 2 oral cop 0.5 assault w/ a deadly weapon possession of cocaine	6-14-82 19 YEARS FOR BATTERY FOR 288 - 2nd 288 CHARGE RE- CEIVED SAME REFERENCE TO BE RECEIVED (CONCERNED). - 3 yrs. 2nd. 2nd COUNT SAME SENTENCE TO BE HEARD CONCURRENTLY CHARGES AND BAIL SENTENCES TO BE SERVED SIMULTANEOUSLY	Since original charges filed, VON KROGER WAS EVIDENTLY CHARGED W/ FURNISHING WITNESS (CHARGED W/ NON SPEAK THAT VON KROGER, ETC. TO THIS DATE, HE FROM BEING D.A. (MARRIAGE) TO OUT OF HER FINGER... AND (2. CHARGES).

AGE	WIFE'S NAME	MARITAL STATUS	CRIME	PLACE	CHILDREN	RACE/ETHNICITY	OCCUPATIONS	RESIDENCE	HOW INCIDENT ENDED
22	CYNTHIA-22	SEPARATED. 3-4 MOS. (MARRIED 6 MOS.)	HUSBAND AND WIFE STILL SEEING EACH OTHER. FEB. 25th, ON A VISIT, 1st RAPE OCCURRED. WIFE WISHED WHETHER TO REPORT, SO WAITED. SEE CRIME INVESTIGATOR FELT CALL NOT THAT STRANG. (SP. W) WIFE'S RELUCTANCE TO GO THROUGH WITH REPORT/ CHARGE, SO RECOMMENDED CR. THOUGH HUSBAND A TRANSIENT WHO WAS LIVING IN A TRASH DUMP AND UNEMPLOYED. HUSBAND RETURNED ON 4/5. RE- PEATEDLY STRUCK WIFE. RAPE HD, AND HELD HER FOR 14 HOURS.	P's HOME	NONE	BOTH WHITE	M-UNEMPLOYED F-BOOKKEEPER	BOTH ULTRA (SAN DIEGO)	FATHER TALKED CYNTHIA INTO PRESSING CHARGES.
35	ALICE-30	MARRIED & LIVING APART	RAPED WIFE AND HER FRIEND (WHO WAS TEMPORARILY STAYING w/ THEM). THREATENED THEM w/ SHOTGUN.	THEIR HOME	NONE	BOTH WIFE	F-housewife M-unavailable	BOTH DELHI, MERCER CO.	
33		MARRIED 2 YRS. SEPARATED JUNE '61	WIFE WENT OVER TO GETRANDED HUSBAND'S APT. TO DISCUSS INVOICE. HUSBAND HIT HER AROUND FACE/HEAD. THREATENED HER w/ GUN & KNIFE. Raped her 2cc. ORAL COPULATION. FORCED, 2cc. <small>IN KANGAROO DURING DAY. RAN A BARGE OVER HER BODY THINKING IF HE WAS "BIGGER THAN YOUR FRIEND"</small> MADE WIFE TAKE SHOWER "SO THERE'D BE NO EVI- DENCE". THREATENED WIFE w/ KNIFE TO HER CHEST. THREATENED WIFE w/ KNIFE HAIR w/ THE KNIFE.	HIS APT.	NONE	BOTH WHITE	M-MECHANIC/ WILDFIRE F-PART TIME STATIONARY PART TIME WORK AT EQUIPMENT STORE	FRIEND	HUSBAND RELEASED WIFE (AFTER THREATENING HER). WIFE RETURNED HOME. THE DAY AFTER THE INCIDENT, THE WIFE WENT TO THE HOSPITAL BECAUSE OF PAIN IN NECK/HEAD. SHE TOLD STAFF AT HOSP. WHAT HAPPENED & THEY CALLED POLICE. AT THAT TIME, WIFE DECLINED TO PRESS CHARGES, SAYING SHE JUST WANTED HER HUSBAND TO LEAVE HER ALONE. WHEN HUSBAND SHOWED UP AT HER PARENTS HOUSE (WHERE SHE WAS STAYING), SHE TRIED CHARGE.

CALIFORNIA SOCIOLOGICAL CHART
P-13

	NAME	ARRESTED	CHARGES	ARRAIGN	BAIL	PLEA	TRIAL OR PREHEARING	COURT PLEA	VERDICT	SENTENCE	OTHER DISPOSITION
51 PK	ROGER HAROLD ADAIR #26872	6-9-82	262- (attempted) Spousal rape 459- Burglary 236- False Imprisonment	6-9-82	\$10,000	NOT GUILTY	'pre-plea' - 8-2-82 HEARING: 8-11-82 MOVED: TRIAL: 9-20-82	262 charge dropped. PLEAD GUILTY - 82 TO FALSE IMPRISONMENT AND BURGLARY (CASE EVIDENTLY DROPPED; REFILED UNDER MISDEMEANOR FALSE IMPRISONMENT/BURGLARY)	1 YR. COUNTY Jail. + TIME SERVED. (SENTENCE CAN BE PARTIALLY WORKED OFF BY WORKING ON "TEAM PROJECT" (9-15-82) 3 YRS. PROBATION w/ SUPERVISION NOT TO HARASS WIFED.		
52 PK	James P. Jones	7-22-82	262- Spousal Rape 207- Kidnapping	9-2-82	\$10,000	PLEAD GUILTY TO KIDNAPPING (262 DROPPED).	9-2-82			7 YRS. (PROBATION DENIED BECAUSE OF "BE" GUILTY OF CASE. 9-23-82)	PLEA-BARGAINING ALLOWED BECAUSE "IT WAS FEARED THAT THE WIFE MIGHT NOT BE COHERENT ON THE WITNES STAND."
53 C	Albert Castellanos # 83504	4-25-82	262: spousal rape 288(A) - Forcible oral copulation	Sup. Ct 5-24-82	NOT AVAILABLE	guilty to 262	[no trial - PLEA-BARGAINED]	guilty	pledged guilty to 262 (DROPPED 288).	8-20-82 - CHANGED TO 9-10-82 7 YRS PRISON	plea bargain - dropped oral cop. charge in return for guilty plea. Castellanos had been previously convicted of raping another woman while the couple was living together before they were married. They were married while he was in prison for the previous rape. WIFE SUBMITTED NOTES THAT LISTED HER WORK SCHEDULE & HOURS - SAID SHE HAD BEEN TRYING TO MAKE HER. HE SAID HE WAS FOR A "MISDEMEANOR" PETITION... HE WOULD BE BEING ARRESTED BY...

CALIFORNIA

LEGAL CHART

THAT CASTELLANOS WAS IN PRISON...

AGE	WIFE'S NAME	MARITAL STATUS	CRIME	PLACE	CHILDREN	RACE/ETHNICITY	OCCUPATIONS	RESIDENCE	HOW INCIDENT ENDED
23	TERESA-35	SEPARATED G-MOS.	HUSBAND BROKE INTO WIFE'S HOME (BURGLARY CHARGE) & ATTEMPTED TO RAPE WIFE. WIFE USED MACE ON HIM. HUSBAND GOT UP, PUT PANTS ON & SAID, "WHY DO YOU CALL THE POLICE I WANT TO GO TO JAIL. WIFE MACE HIM AGAIN.	HER HOUSE		M. CAUCASIAN	unavailable	ANTIOCH, CONTRA COSTA	USED MACE 2 ND . HUSBAND LEFT. WIFE CALLED THE POLICE.
31	Audrey -22 NEWS	separated	Kidnapped wife in Fresno, drove her all the way to the coast. Took her to an isolated wooded area and raped her repeatedly.	isolated wooded area off highway 1.	NONE	BOTH CAUCASIAN	M. TRANSIENT F. TEACHER'S AIDE	Fresno, Fresno Co.	Police spotted car parked off the road and went to investigate. Found wife and husband and arrested husband.
32	Carolyn Rinta -23	married, wife was trying to leave when rape occurred, plans to divorce husb.	Wife got in her car to leave husband. He was waiting for her inside the car. He accused her of having an affair, ordered her to drive home where he told her he was going to "teach her a lesson" and raped her.	their home	one daughter	M. HISPANIC F. CAUCASIAN	M. unemployed wifes helper F. ELECTRONIC ASSEMBLER	San Jose, Santa Clara Co.	Both fell asleep in living room. Victim called police in the morning.
						CALIFORNIA	SOCIOLOGICAL	CHART	

	NAME	ARRESTED	CHARGES	ARRAIGNED	BAIL	PLEA	TRIAL OR PREHEARING	COURT PLEA	VERDICT	SENTENCE	OTHER DISPOSITION
54 PC	RUBIN TOLLIVER	4-23-82	262 - SPOUSAL RAPE 288a(1) - 5 counts forced oral copulation 273.5(a) - Lewd and Lascivious Injury with a Penis 273(d) - Rape 261.5 - RAPE	6-7-82	\$50,000	NOT GUILTY	PRE-LIM - 5-28-82 PRE-TRIAL - 7-7-82	11-7-82 - I TO ALL COUNTS EXCEPT 273(d)	LEAD GUILTY	10-8-82 - reset to: 10-22-82; RESET TO: 10-27-82 - FINES STATE PRISON - PROBATION DENIED	PLEA BARGAINED TO DUI + GUILTY TO CHILD CHARGE
55	ANON.	RAPE: 3-21-82 10:15 pm	262 - spousal rape 207 - Kidnapping	believe	rape charges dropped. BURGLARY / GRAND THEFT CHARGES FILED SEPARATELY AGAINST HUSBAND.						
56 C	JOHN WATKINS	7-26-82	262 rape 288a - forced oral copulation 295 ASSAULT w/ a deadly weapon (All 3 counts w/ same defendant name)	11-4-82 cont'd to 11-5-82	\$50,000 (not met)	NOT GUILTY	Pre-hearing: 10/10 & 10/24/82 TRIAL: 12-2-82 reset: 12-23-82	Not Guilty	GUILTY BY JURY OF ALL 3 COUNTS 2-20-83	(maximum sentence 20yrs) 2-24-83 262-A: 3 YEARS + 2 YEARS FOR USE OF DEADLY WEAPON = 5yrs. FORCED ORAL COP. SENTENCE TO LHM CON - CURRENT - Y	(8 YR. OLD BOY TESTIFIED)

AGE	WIFE'S NAME	MARITAL STATUS	CRIME	PLACE	CHILDREN	RACE/ETHNICITY	OCCUPATIONS	RESIDENCE	HOW INCIDENT ENDED
27	SANDRA 35	MARRIED			2	BOTH BLACK	M - SCHOOL CUSTODIAN W - HOME MAKER	Petal Sea TJERE	HUSBAND AND WIFE FELL ASLEEP ON COUCH.
		ESTRANGED	KIDNAPPED WIFE. DROVE HER TO HIS HOUSE. RAPPED HER IN HIS BACK YARD. [SHE WOULD NOT BELIEVE HIS STORY] SEEMINGLY SHE ADMITTED FOR WINDOW TO SPEAK TO ME. PLACED INSIDE & PULSED HER OUT, FIRING HER INTO HIS CAR. DROVE TO HIS ACT. [TICE] USED REPEATED BEATINGS	HUSBAND'S BACK YARD			M - DEAN W - TEACHER	M - OAKLAND W - SAN FRANCISCO	W CALLED HER ATTORNEY AFTER RAPE & WAS TREATED BY KATHLEEN HOOD. RICHARD ON ATTORNEY'S ADVICE, WHERE SHE WAS TREATED FOR LOUISIS.
58	DIANA 35	ESTRANGED	HUSBAND ENTERED WIFE'S HOUSE AT NIGHT & WIFE WIFE UP. FORCED HER AT GUNPOINT INTO THEIR CHILDREN'S ROOM WHERE HE THREATENED HIS DAUGHTER, GRACE, AND THEN HIS WIFE. TOLD WIFE HAD TO GO TO A PARTY NEXT MORNING (WIFE FOUND) HUSBAND WIFE ON PHONE. MADE HER SIGN IN 1981 DECLARATION. WIFE CLAIMS HUSBAND INTERFERED (WHICH HE DENIES)	FLOOR IN WIFE'S HOUSE	2	M - WHITE W - ASIAN (CHINESE)	M - usually un-employed. odd jobs on and off. W - CLERK	Both: Dunsmuir, LA County	HUSBAND TRIED TO TALK WIFE INTO dropping THE DIVORCE CASE AND THEN LEFT. PICKED UP FOR DRUNK-DRIVING & CONCEALED WEAPONS. AFTER ARREST, CHARGED w/ RAPE.

CALIFORNIA SOCIOLOGICAL CHART

	NAME	ARRESTED	CHARGES	ARRAIGNED	BAIL	PLEA	TRIAL OR PRE-HEARING	COURT PLEA	VERDICT	SENTENCE	OTHER DISPOSITION
57 C	JOE DEAN TAYLOR		12 counts: 262 - Spousal rape (1 full, 1 attempted) 288a - Forcible ORAL COPULATION 4 counts 286c - Sodomy 207 - Kidnapping 2 counts 245 - Assault w/ a deadly weapon upon their daughter 3 - counts			Guilty	None - PLEA BAR. GAINED	→	Guilty of ONE COUNT EACH: spousal rape, sodomy, oral cop., kidnapping (of wife) assault w/ a deadly weapon (upon daughter).	Potential: 29 yr. Bus. Received 11 YEARS STATE Prison. Court imposed the aggravated term on all counts, but ran the sentences concurrent to the one charge of oral copulation w/ knife enhancement.	PLEA BARGAINED "IN AN EFFORT TO SPARE THE VICTIMS THE TRAUMA OF A JURY TRIAL AS WELL AS FOR EVIDENTIARY REASONS"
58 PL	MICHAEL ANTHONY DIEHL	rape: 1-10-83 amended criminal complaint 1-24-83	262 - spousal rape 245 - assault w/ a deadly weapon 189 - Burglary 235 - inflicting corporal punishment on a spouse 288(a) forced oral copulation 289 - rape w/ a foreign object 286 - forced sodomy	1-11-83	\$100,000	Pled Guilty to amended charges: assault w/ a deadly weapon; felony wife beating. Charges amended w/ wife's approval			Pled guilty: 245/273.5 ↳ misdemeanor.	1 yr. suspended sentence for county jail. 30 days served. Must complete health program.	No visitation of wife. Limited child visitation rights to be arranged.

AGE	WIFE'S NAME/AGE	MARITAL STATUS	CRIME	PLACE	CHILDREN	RACE/ETHNICITY	OCCUPATIONS	RESIDENCE	HOW INCIDENT ENDED
		ESTRANGED	KIDNAPPED WIFE AND 2 YR. OLD DAUGHTER TO COUNTRYSIDE. THREATENED MOTHER'S CHILD! RAPED MOTHER, ASSAULTED DAUGHTER.	Country Side	1 (2 yr old daughter)				
25	MIKEY 24	ESTRANGED	HUSBAND ENTERED WIFE'S BEDROOM AT 2:30 AM - HE TOOK KNIFE TO HER THROAT. ORDERED WIFE INTO BATHROOM, TOLD HER TO BE QUIET; RAN THE BLADE OF THE KNIFE ACROSS HER THROAT, UNDER HER NOSE! TOWARDS HER EYES.	WIFE'S HOUSE			Unemployed	BOTH: CRENSHAW CITY	Husband left, threatening wife not to call police.

CALIFORNIA SOCIOLOGICAL CHART
P. 15

11. 41. 445(a)

APPENDIX II

State-by-State
Information on Marital Rape
Exemption Laws

by Joanne Schulman
*Staff Attorney with the National Center
on Women and Family Law, Inc.*

A husband's rape of his wife is not a crime in most states. This legal right of wife rape is known as the "marital rape exemption," and is included in most states' rape statutes.

There are many types of marital rape exemptions. The state-by-state summary divides the exemptions into the following categories.

CATEGORY

- 1 *Absolute Exemption.* A husband can never be prosecuted for rape of his wife so long as the parties are married. The exemption still applies even if the parties are separated by court order. The exemption only ends when the parties are divorced; when the man is no longer *legally* the victim's husband.
- 2 *Partial Exemption.* A husband can be prosecuted for rape of his wife in some circumstances. Some states allow prosecution if the rape occurred after one spouse filed papers in court to end the marriage, or when the parties were not living together. The event or circumstance that ends the exemption differs from state to state.
- 3 *Cohabitant Exemption.* A man who is living with a woman that he is not legally married to cannot be prosecuted for raping her. Often this exemption is stated as a "defense," rather than a bar to prosecution. Thus, the district attorney may institute rape charges against the man, but he cannot be convicted of rape if he can prove he was living with the victim.
- 4 *Voluntary Social Companion Exemption.* This exemption may apply to husbands, cohabitants and social companions (i.e., dates). There is no requirement that the rapist live or have lived with the victim. Most states that have this type of exemption require that there have been past voluntary sexual relations between the defendant and victim in order for the exemption to apply. However, West Virginia does not require any past sexual activity.

CATEGORY	
5	<i>Silent Statute.</i> The law does not mention whether husbands may or may not be prosecuted for rape of their wives. It has been assumed, until recently, that husbands could <i>not</i> be prosecuted because of Hale's alleged "common law" marital rape exemption. However, recent lawsuits in New Jersey, Massachusetts and Florida have held that no "common law" exemption exists. Thus, it is not clear if husbands can be prosecuted for marital rape in these "silent" states. Whether marital rape is a crime in these states will depend on future judicial decision, or legislative interpretation of the statutes.
<i>No Exemption</i>	The marital rape exemption has been abolished; husbands can be charged with rape of their wives in all or most cases.
<i>Rape Degrees</i>	In some states, there are different "types" of rape, murder, assault, etc. In most states, the criminal laws punish rape more or less severely depending on the circumstances of the rape (e.g., whether a weapon was used; age, mental and/or physical condition of the victim; whether the assault involved illegal sexual penetration, conduct, contact or use of a foreign object). These differences in the law are called "degrees." It is not possible to give a uniform definition for each "degree" as each state bases its rape degrees on different factors. (The fact that the marital rape exemption may apply in some rape degrees and not others has political and practical significance. The law is saying that it will tolerate certain violence by husbands against their wives that it will not tolerate between strangers. Practically, the different application of the exemption, based on the degree of rape charged, may decide whether marital rape cases will ever be prosecuted or what, if any, penalty will be imposed.)
<i>Gender-Neutral Statutes</i>	Traditionally, the law defined rape as a crime only men could commit. Thus, only husbands were granted the "immunity" or protection of the marital rape exemption. Today, many states have rewritten their laws in gender-neutral terms. Under these new rape laws, women can also be prosecuted for rape and the immunity granted under the marital rape exemption is extended to both spouses. The following chart does not incorporate these gender-neutral changes since it is intended to reflect reality rather than pure "legalese."

These categories are general, and states may fall into more than one category. In addition, considerable legislation and litigation has been occurring over the last two years, and therefore the following chart only reflects the law as of July 1, 1981.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Alabama	1, 3	Husbands and cohabitators can <i>never</i> be charged with rape of mate.	Title 13A-6-60(4), 13A-6-61
Alaska	2	Husband can only be charged with rape of wife if parties were living apart or he caused	Stat § 11.41.445(a)

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW severe physical injury (besides the rape).	CITATIONS*
Arizona	2	Husband cannot be charged with wife rape while parties are living together.	R.S. § 13-1404-06
Arkansas	5	Statute only exempts husbands in statutory rape cases. Whether marital rape is a crime will depend on judicial decision or legislative interpretation of "common law" exemption.	Stat. § 41-1803, <i>et seq.</i>
California	<i>No Exemption</i>	Husband can be charged with crime of "spousal rape." Thirty-day reporting requirement.	Pen. C. § 262
Colorado	2	Husband cannot be charged with rape of wife while parties live together.	R.S. § 18-3-409
Connecticut	<i>No Exemption to First-Degree Rape; 1, 3</i>	Spouse/cohabitators can be charged with first degree rape; marital and cohabitor exemption for all other sexual assaults.	Pen. Code § 53a-67(b), as amended by H.B. 5247
Delaware	3, 4	"Voluntary social companion" of victim cannot be charged with first degree rape; this may exempt husbands, cohabitators and "dates." Cohabitators (and spouses living together) cannot be charged with rape of mate.	D.C.A. §§ 761-764, 772(b)
District of Columbia	5	Not known if "common law" exemption applies, making marital rape legal.	R.S.D.C. § 22-2801
Florida	<i>No Exemption</i>	Husbands can be charged with rape of wife, the same as a stranger. (<i>State v. Larry Smith</i>)	S.A. § 794.011
Georgia	5	Statute only exempts husbands in statutory rape cases. Marital rape may be legal under "common law" exemption; will	C.A. § 26.2001, 2018

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
		depend on judicial decision or legislative interpretation of statute.	
Hawaii	4, 2	"Voluntary social companion" of victim cannot be charged with forcible (first degree) rape; this may exempt husbands, cohabitators and "dates." Husbands cannot be charged with "lesser" sexual assault of wife while parties are living together.	R.S. § 707-730 to 732
Idaho	2	Husbands cannot be charged with rape of wife <i>unless</i> parties have been living apart at least 180 days or legal action for divorce or separation started (petition filed).	C. § 18-6107
Illinois	1	Husband can <i>never</i> be charged with rape of wife.	A.S. Ch. 38 § 11-1
Indiana	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	S.A. § 35-42-4-1(b)
Iowa	<i>No Exemption to First- and Second-Degree Rape; 3</i>	Husbands <i>can</i> be charged with first and second degree rape of wife. Husbands and cohabitators <i>cannot</i> be charged with third degree sexual abuse of mate.	C.A. § 709.2 to 709.4
Kansas	1	Husband can <i>never</i> be charged with rape of wife.	S.A. § 21-3502
Kentucky	2	Husbands and cohabitators cannot be charged with rape of spouse <i>unless</i> court order of separation.	R.S. § 510.010 (3)
Louisiana	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	R.S.A. § 14.41

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Maine	2, 3	Husbands and cohabitants cannot be charged with rape of mate while parties living together.	R.S.A. Title 17A § 251, 252
Maryland	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	A.C. § 27-464D
Massachusetts	<i>No Exemptions</i>	Husbands can be charged with rape of wife same as a stranger (no exemption). (<i>Commonwealth v. Chretien</i>)	A.L. Ch. 265 § 22; Ch. 277 § 39
Michigan	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	M.S.R.C.C. Ch. 23 § 2340
Minnesota	<i>No Exemption</i>	Husbands can be charged with rape of wife under most circumstances.	S. S. § 609.349
Mississippi	2, 5	Husband cannot be charged with "sexual battery" of wife <i>unless</i> parties living apart. Separate "rape" statute does <i>not</i> exempt husbands; unknown if marital rape is a crime.	MCA § 97-3-95 to 103, (Supp. 1980)
Missouri	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	A.S. § 566.010.2
Montana	2, 3	Husbands/cohabitants cannot be charged with rape of mate while parties are living together.	R.C. § 45-5-506
Nebraska	<i>No Exemption</i>	Husband can be charged with rape of wife the same as a stranger.	R.S. § 28-319, 320
Nevada	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	R.S. § 200.373

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
New Hampshire	<i>No Exemption</i>	Husband <i>can</i> be charged with rape of wife under most circumstances.	RSA 632-A:5 (H.B. 516, effective 8/81)
New Jersey	<i>No Exemption</i>	Husbands <i>can</i> be charged with rape of wife, same as a stranger (no exemption).	S.A. § 2C:14-5(b)
New Mexico	2, 3	Husbands/cohabitants cannot be charged with rape of their mates <i>unless</i> parties living apart or legal action for divorce or separation started (petition filed).	Stat. § 30-9-10, 11
New York	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	Pen. L. § 130.00
North Carolina	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation or spouses living apart pursuant to written agreement.	G.S. § 14-27.8
North Dakota	2	Husbands cannot be charged with rape of wife <i>unless</i> court order of separation.	C.A. § 12.1-20-01, 02, 03
Ohio	2	Husband cannot be charged with rape of wife <i>unless</i> parties live apart and court action started (petition filed) or written separation agreement entered into.	ORC § 2907.01, 02
Oklahoma	1	Husband can <i>never</i> be charged with rape of wife.	S.A. Title 21 § 1111
Oregon	<i>No Exemption</i>	Husbands can be charged with rape of wife same as a stranger.	R.S. § 163.305
Pennsylvania	2, 3	Husbands/cohabitants cannot be charged with rape of mates <i>unless</i> parties living apart or written separation agreement entered into.	S.A. Title 18 § 3103

*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Rhode Island	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	G.L. § 11-37-1
South Carolina	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	C. § 16-3-658
South Dakota	1	Husband can <i>never</i> be charged with rape of wife.	C.L.A. § 22-22-1
Tennessee	2	Husband cannot be charged with rape <i>unless</i> court action for divorce or separation started (petition filed).	C.A. § 39-3702
Texas	1, 3	Husbands and cohabitor can <i>never</i> be charged with rape of wife/mate.	§ 21-02(a) § 21-12
Utah	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	Crim. C.A. § 76-5-402, 407
Vermont	1	Husband can <i>never</i> be charged with rape of wife.	S.A. Title 13 § 3252
Virginia	5	Unknown if marital rape is a crime.	Code 18.2-61, <i>et seq.</i> (effective 7/1/81)
Washington	1	Husband can <i>never</i> be charged with rape of wife.	R.C.A. Ch. 9A.44.010, <i>et seq.</i> (Supp., 1979)
West Virginia	1, 3, 4	Husbands and cohabitants can <i>never</i> be charged with rape of mate. "Voluntary social companion" cannot be charged with 1st degree sexual assault (date-rape exemption).	Code § 61-8B-1
Wisconsin	2	Husband cannot be charged with rape of wife <i>unless</i> parties live apart and court action for divorce or separation started (petition filed).	S.A. § 940.225(6)
Wyoming	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	S.A. § 6-4-307

*The citations are included so interested readers can more easily obtain full details of these laws.

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DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
 JUNEAU, ALASKA 99811
 PHONE: 465-3030

February 21, 1984

Document N.: 84-89

The Honorable Paul Fischer
 Senator
 Alaska State Legislature
 Pouch V
 Juneau, AK 99811

Dear Senator Fischer:

This is in response to your request for information regarding additional FICA costs incurred by residential care facilities for children for Fiscal Year 1984.

The following information has been made available by the Alaska Association of Homes for Children (AAHC). These amounts include additions for some employees who were not covered previously under FICA; and for others it reflects an increase of .3 percent (from 6.7 to 7.0%).

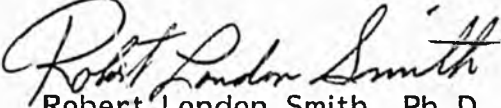
Alaska Children's Services	\$24,100	(12,500 is for new coverage)
Alaska Family Baptist Center	400	(.3% increase)
Bethel Croup Home	6,000	(new coverage)
Booth Memorial Home	20,000	(new coverage)
Presbyterian Hospitality House	1,440	(.3% increase)
Ketchikan Teen Homes	6,000	(partially for new coverage)
Kenai Care Facility	14,000	(new coverage)
Juneau Receiving Home	660	(.3% increase)
Kodiak Baptist Mission	10,500	(new coverage)
Nome Receiving Home	255	(.3% increase)
Maniilaq Group Home	720	(.3% increase)
Sitka Receiving Home	2,848	(new coverage)
North Star Children's Home	135	(.3% increase)
Crossroads	200	(.3% increase)
TOTAL	\$87,258	

February 21, 1984

The AAHC was not able to obtain specific information from the Bethel Receiving Home. However, we assume that it incurred costs also. The Association was not able to contact the North Slope Receiving Home either; but as borough employees we assume those employees are covered.

We hope that this information will assist you but not be interpreted as a Department's endorsement. Please feel free to contact me if you have any further questions.

Sincerely,


Robert London Smith, Ph.D.
Commissioner

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(FILED)

MICROWAVE RADIATION HEARING
AT CLEAR, ALASKA

Senate HESS

March 11, 1984
5:30 p.m.

(VERBATIM TESTIMONY)

Attendance: Josephson, P. Moss. Senators V. Fischer, P. Fischer, and R. Halford excused.

001 Josephson: Good afternoon. I am Senator Joe Josephson, the Chairman of the Senate Health, Education and Social Services Committee. On my right is, of course, known to you as your senator, Senator Pappy Moss, who is a member of the committee and who chairs the Senate Committee on Transportation. We are here today because both Senator Moss and my colleague, Senator Fahrenkamp from Fairbanks, asked me to come and join Senator Moss for the purpose of taking testimony concerning the episode here involving possible radiation to workers...radiation injuries to workers. I might just make a preferatory statement or two so that you can get an inkling as to what our particular interests might be.

My knowledge of the incident is very limited. In fact, it would be greater, but our staff with the materials that our aide had compiled, were delayed in Juneau and could not leave Juneau because of weather today, and so we are without staff and without the normal briefing papers that we would have had access to. But, as I understand it, there have been inquiries made, perhaps by Congressman Young or his staff and other officials, and it is not my desire to either retrace that kind of detailed ground for no particular benefit to anybody, nor to intrude at the state level as to what may be some ongoing investigation at the federal level.

I think our interest is a little bit different in focus. First, we have a concern in the committee about public health problems generally and about worker health problems in particular. That was evident in 1983 by the passage by the legislature of the so-called 'Workers Right To Know' bill which dealt with hazardous substances and toxic wastes in the workplace. We are interested in the oversight of state OSHA activities and worker safety activities through the Department of Labor. How well they function, how they can be approved, to what extent appropriation levels may be sufficient or insufficient and the kinds of cooperation that they have given in this case, might be instructive to us. Insofar as the federal role is concerned, there may be opportunities for the legislature to, either formally memorialize the congress or federal agencies or informally work with the Alaska Delegation, and we would be perceptive to your suggestions or comments about those matters. There may, in this case, be some particular questions about state federal relations and preemption on federal onlays which ousts the state

government of jurisdiction, but we may find ways by which changes in state law could approve workers safety.

And then, I might finally say that I am interested in knowing whether, in your judgment, the incident that occurred was an isolated mistake or part of a pattern of hazard that we ought to be attentive to, and I have no information about that as I sit here, but I would be glad to be educated by you. Those are the general purposes for which we are here. When we conclude this, we will determine what other steps to take or to recommend to the legislature and the Governor. In any event, we will report to our colleagues in the Senate who know of this hearing, of course, and the Senate President authorized the subpoena power which we have exercised through the committee. We will have some follow-ups, but I can't tell you what that will be, of course, until I hear testimony. Senator Moss, do you have any preliminary remarks?

101 Moss: Well, just as you said Senator, there is a question as to whether or safety devices or problems have occurred or been bypassed knowingly, and with the concurrence of site management. There seems to appear to be a need to determine whether or not there has been a violation of state health and safety laws. That's what I think we are both looking at, at least I am too, and with that, I would...I would also point out that we are not on a witch hunt. We are definitely not on a witch hunt. Of course, there is a question as to whether or not there is a continuing health hazard for the base workers or citizens adjacent to the base or hazards to any other forms of life. And what are the long term effects of microwave radiation, I don't know. Perhaps maybe we can find out something from this that we have here. Did we have anybody get here from the state OSHA yet?

138 Josephson: What is your name, sir?

140 Eric Short: Eric Short.

141 Moss: Okay. I'm sorry Eric. I couldn't see you back there.

143 Josephson: Mr. Short, if at any point you wish to speak or comment, would you indicate that to me. Do you have a prepared statement you would like to make or would you rather just comment in response to questions or testimony?

148 Short: The department has prepared chronology which reiterates our involvement in the case, so I can read you a copy of that?

151 Josephson: Could you hand that to us now so that we might be able to scan it as we listen to testimony?

160 Moss: (inaudible)

165 Josephson: Alright, and I appreciate that. Mr. Foster?

166 Foster: Yes sir?

167 Josephson: Would you like to come forward and talk to us? You can have a chair here? Good afternoon, Mr. Foster. I understand that you were one of the people who may have been involved in the microwave radiation exposure incident of September 14. I invite you to proceed, in your own narrative way, given the preferatory comments of Sen. Moss and myself indicating what you would like us to know that we may not know concerning this incident, or what your concerns might be.

178 Foster: My primary concern since the accident are actually three fold. The first is that we had been told that accurate radiation information is needed for proper diagnosis and treatment for this injury. To date, we do not have that accurate information. The details have been given to Congressman Young and can to you, if you wish, but you can count on a about a five-your sitting with us to show you technically that the survey was done incorrectly.

189 Moss: Ron, would you kind of explain in layman's language what you mean by that...?

192 Foster: Radiation survey taken on the 22nd of September was used three groups of instruments: one provided by the Clear Air Force Station, which was on sight, one instrument that was shipped from Brooks Air Force Base, and a group of two instruments that were provided by Eielson Air Force Base. The instrument provided by Pellick and the instrument provided by Brooks Air Force Base were used in the actual work area. I noticed the instruments were acting erratically during the survey. I assisted the team and notified our site manager and also our radiation monitor of this. Since then, it has been discovered that not only were the instruments incorrectly calibrated, the Pellick instrument was actually broken. I think that pretty well says it all about our radiation survey.

220 Josephson: So, let me ask this, and I apologize for approaching this in such a naive way, but I am trying to get up to speed as fast as possible. Mr. Foster, after the incident, you began to be concerned about your health, I take it, or began to feel symptoms...

225 Foster: Not immediately...

226 Josephson: Not immediately, but sometime after that. You've consulted medical authorities, have you for diagnosis?

228 Foster: We've seen several physicians, yes.

229 Josephson: And you were told that any advice to you from a medical mans' point of view, a medical persons' point of view, would require accurate radiation information?

232 Foster: That is correct.

233 Josephson: And because of the situation you just described with erratic or broken machinery, that information has not been provided?

236 Foster: To the best of my belief, there has not been a legitimate radiation survey on the track around town.

238 Josephson: Now, if a survey were done today, would it be too late to give you the kind of information that would be diagnostically helpful to your doctors?

241 Foster: The information we've been given is you have immediately short-term effects, which have obviously peaked in all of us, and you also have a long-term chronic effects from radiation exposure. The level...the dosimetry information is critical to long-term diagnosis. This is the information we've been given.

246 Josephson: I understand that, but I mean if you had proper equipment today to monitor, March 11, to monitor radiation in a radiation exposure survey, would it be too long after the incident of September 14 to be helpful or meaningful?

250 Foster: Are you asking can we duplicate the experiment?

251 Josephson: Yes.

252 Foster: Yes we can. We know where the antenna was, we know what the power levels were.

255 Josephson: Have you asked why that has not been done?

256 Foster: Repeatedly.

257 Josephson: Who have you asked?

258 Foster: I've asked the...initially, the management of Federal Electric, I went to the commanding officer of the station. I went to his commanding officer, and ultimately, to General Hardinger, Commander of Space Command. We have gone to state and federal OSHA, several United States congressman and senators and to our state senators. We still do not have that survey redone.

264 Josephson: Do you have any estimate as a technician as to what the cost of doing the survey would be?

266 Foster: No sir, I don't.

267 Josephson: Not only has it not been done, but nobody has explained to you why it has not been done or cannot be done, is that right?

269 Foster: The majority of my attempts within the IT&T and air force barometers or with that group were largely ignored. With my United States congressman and senators, they have met with us at length, in excess of 30 hours now, gathering information and have requested that it be redone. This is also true with state OSHA. I've met with Eric repeatedly over this, and there has been effort, to the best of my knowledge to request that it be redone.

276 Josephson: By the state?

277 Foster: By the federal OSHA out of Seattle. Apparently, the State of Alaska doesn't have a measurement.

279 Josephson: But the state...has the state, whether it has the measurement technology or not, asked that it be done, performed?

281 Foster: That's been indicated to me.

283 Josephson: Now, you indicated that that was the first concern of yours and that you have three concerns. Would you go on to the second concern?

286 Foster: The second concern is that we just never received any legitimate medical attention. We were told we had suffered merely a sunburn after radiation survey that was done incorrectly. As time went on and groups of people began to get more and more sick, the only help we were offered, initially and I am referring to initially after the class 3 physical we took at the dispensary, which was four hours after the accident and a blood test and chest x-ray and ophthalmological...I can't pronounce that word...the following day, an eye examination, we were offered a trip to Brooks Air Force Base. But the parameters of that offer were so unusual, two of us declined. By unusual, I mean we were asked, that we would ask to go in writing, take a leave of absence without pay, and that we would leave without a medical certificate, which the doctor's certificate is required for a leave of absence on the Federal Electric form they tried to get us to sign. I think a quick call to workmen's comp clarifies that isn't the way you handle industrial accidents.

When we did complain to workmen's comp, a set of medical orders did come to us for a routine flight physical. At that point, two of the workers decided not to go to Brooks initially, and several of the others did.

331 Josephson: Would a routine...do you know what a routine flight physical would embrace in terms to looking for the diagnostic or treatment information about your particular exposure?

335 Foster: No sir, I don't. I merely know the workmen's comp people responded that they could not pay benefits to a group of individual that requested a routine flight physical in writing.

339 Josephson: What...can you describe what you or your co-workers experienced as symptoms and when you first began to experience them that lead you to seek medical attention?

342 Foster: The first thing I recall is in my right eye seeing a line that looked like I was looking through a poorly formed piece of glass, which I mentioned to Dr. Martino, which was approximately 10 days after the accident. I also noted difficulty in viewing back-lighted objects, in that they looked like I was viewing them through a piece of silk. A severe onset of headaches began somewhere in that general vicinity. I have a log I kept from my doctors and that exact chronology, I'm not sure. Visual problems were the first problems I had. It caused me to realize that there was going to be some kind of reaction to this accident?

350 Josephson: Had you had anything like that before?

351 Foster: No sir.

352 Josephson: What other kinds of symptoms did you develop?

354 Foster: I have since developed what is known as (sic) Lear Sign, I believe, which is a severe electric shock feeling. Sometimes it knocks my legs physically out from under me. It feels like you are backing into electric wires. It happens in an unpredictable fashion. I have been told my right eye is ruptured internally in several places. I'm not aware of that, but it reminds me of when I saw that crack in my eye.

360 Josephson: How old are you, Mr. Foster?

361 Foster: Thirty-six.

365 Josephson: Alright, we will go ahead. What was your third concern? You might tell us that.

368 Foster: My third concern is that there has never been an honest accident investigation as to the cause of the radiation incident at Clear Air Force Base. The report filed with the State of Alaska is riddled with errors, half truths, and out right lies.

374 Josephson: Who is the author of that report?

375 Foster: Federal Electric, my employer.

378 Josephson: You are here in response to a subpoena issued by this committee, is that right?

379 Foster: Yes sir.

380 Josephson: Did anyone at any time attempt to discourage you from testifying?

382 Foster: No sir.

383 Josephson: In terms of the question as to whether there was an honest accident investigation, you say the report was erroneous. Let me see. Mr. Short, do you have...is there a copy of the report that was submitted with you?

386 Short: Yes.

387 Josephson: Is that available to us, or...

388 Short: Yes.

389 Josephson: Alright. Have you determined...has state OSHA determined if the report is accurate or inaccurate?

391 Short: We have gathered data from statements from the employees and we have also obtained reports from public services, and we have compared and contrasted them.

394 Josephson: Do you find discrepancies between the accounts of what happened?

396 Short: There are some questions.

398 Josephson: Alright, we will come back to you on that. Mr. Foster, do you have anything else you want to add at this time...to your statement? We have not determined, as I indicated earlier, what our role should be and how deeply we should pursue the matter, but we may want to talk to you again, if you are available. It may be subsequent tonight, but I appreciate your coming forward. Let me see if Senator Moss has any questions.

409 Moss: Some of the witnesses...sooner or later, I would like somebody to kind of describe just what happened that day.

411 Josephson: Thank you Senator. I think that is a good idea. Could you, as a predicate to all of this, explain what you were doing and, as Senator Moss cautioned, try to make it easy for even senators to understand...what you were doing and what, what you experienced on the 14th of September.

420 Foster: Okay, on the day of the accident, we took the radar down in the morning. During a routine inspection at the superstructure that holds the antenna together, we discovered several cracks in the metal. A medillogical