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**Battered Women Who Kill:
Jury Simulation and Legal Defenses**

**by
Marilyn Kasian, M.Sc.**

**A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfillment of
the requirements for the degree of
Doctor of Philosophy
Department of Psychology
Carleton University**

**Ottawa, Ontario
September, 1991**

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The undersigned hereby recommend to
the Faculty of Graduate Studies and Research
acceptance of the thesis submitted by
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in partial fulfillment of the requirements
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Abstract

Mock juries, comprised of university students, were used to assess the frequency of acquittal in cases involving a battered woman charged with killing her husband. The simulated trial format was based on actual courtroom proceedings including witness cross-examination and jury deliberation proceedings. The type of plea entered by the defendant was varied and reflected either self defense, diminished capacity (i.e., automatism) or a hypothetical plea of psychological self defense. The severity of abuse incurred by the battered woman prior to the homicide was also varied (moderate vs. severe). In addition, trial outcome following testimony from an expert witness on the battered woman's syndrome was assessed.

The results suggested that jurors more frequently found the defendant not guilty when a plea of automatism was entered relative to a self defense plea. The plea of psychological self defense resulted in more not guilty verdicts than the traditional self defense plea but significantly fewer acquittals than the automatism condition. The likelihood of acquittal increased under conditions of severe abuse as opposed to moderate abuse. However, females were more likely to believe the defendant not guilty relative to males regardless of the plea entered or the severity of abuse. Expert witness testimony influenced verdict outcome during deliberation. Males and females in the expert condition did not differ on verdict following deliberation while females continued to enter a not guilty verdict relative to the

guilty verdict arrived at by males in the no expert condition. The influence of gender and attitudinal variables on verdict outcome in these Experiments is discussed. In addition, the legal debate on justification vs. excuse for homicide is evaluated with particular reference to cases where battered women kill their partner.

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Introduction

In recent years, the issue of violence perpetrated against women by intimate partners has been both an interesting and a contentious topic to scientists, politicians, health professionals, members of the legal profession and the media among others. In large part, interest in this issue has been generated by women's groups, which have perceived a need to identify and acknowledge the existence of the abusive treatment of women (e.g., Pizzey, 1974). The publicity generated from anecdotal accounts of wife abuse have paralleled attempts to empirically document and evaluate violence between intimate partners. However, there has been considerable controversy and ambiguity in the results generated from such investigations. For example, estimates of the actual frequency of abusive episodes in intimate relationships range from 10% (MacLeod, 1980) to 50% (Walker, 1984).

In part, discrepancies in results generated from studies on wife assault can be accounted for by variations in operational definitions, methodology and theoretical perspectives. However, the domestic violence field has also been found to be particularly susceptible to researcher bias in that researchers sympathy for victims of violence has interfered with adherence to a rigorous methodology. In part, these biases have been understandable, since empirical estimates of the frequency and severity of wife abuse have been used by some to convince politicians, adjudicators, police and the public of the pervasiveness and seriousness of physical and psychological assault on women by

intimate partners. As a result, research findings have been used to lobby government to provide better services for abused women. Conversely, some researchers have criticised the lack of methodological rigor apparent in many investigations and have suggested that the incidence and severity of the problem have been overestimated.

Use of objective criteria to assess investigations of domestic violence is particularly important because it is often difficult to separate reliable and valid data from the emotional and intuitive appeal of any given investigation. Consequently, this paper reviewed issues pertinent to violence directed at women in intimate relationships from an objective perspective. It should be noted that the emphasis on objective evaluation in no way demeans either the importance of domestic violence as an issue in general, or the researchers whose work was critiqued. Rather, it is hoped that a critical evaluation of investigations assessing issues related to domestic violence will elucidate, rather than obfuscate, variables pertinent to wife assault.

Women in abusive situations have been referred to as 'battered women' or 'battered wives'. The term was initially confined to a description of women who were subjected to demonstrable, severe and repeated physical assault by their spouse (Gayford, 1975). As this definition was deemed too restrictive by researchers and clinicians, Walker (1979) expanded the definition to include women who, regardless of marital status, were subjected to coercion without regard to legal rights or

personal well being. This latter definition of 'battered woman' (or 'battered wife') will be used here as it (a) incorporates women in common law and dating relationships, (b) includes women who are subjected to sexual, physical and/or psychological abuse and (c) focuses on the coercive nature of an abusive relationship rather than physical abuse per se. It should be noted that while Gayford's (1975) definition was too restrictive, Walker's (1979) definition fails to provide parameters for either the degree, duration or severity of abusive acts necessary to objectively define a 'battered woman'.

Determining the proportion of domestic violent incidents ending in death requires an accurate estimate of the total number of such abusive incidents. Such figures have remained elusive (see discussion below). However, the proportion of domestically related homicides is known. For example, approximately 25% of all homicides, in the United States, were committed by cohabiting partners in 1984 (Browne, 1987). In Canada, 16% of the total number of homicides were committed by either husbands killing their wives, or wives killing their husbands (Statistics Canada, 1989). Canadian women, like their American counterparts, were more likely to be victims of domestic homicide compared to men (Statistics Canada, 1989). Accordingly in 1988 in Canada, of the 91 cases of domestic homicide, (defined as couples legally married or living common-law), 70 women were killed by their husbands and 21 men were killed by their wives (Homicide in Canada, 1989).

Some researchers have suggested that in those instances where women have killed their partner, the man may have precipitated his own death through instigation of physical aggression (Chimbos, 1978; Goetting, 1989; Browne, 1987; Walker, 1984; Edwards, 1986; Mann, 1989; Gillespie, 1989; Wolfgang, 1958). The majority of women interviewed in these studies cited incidents of severe, physical, psychological and sexual abuse prior to the homicide. Furthermore, these women often claimed self defense in explaining their behavior. Thus, contrary to the movement away from 'blaming the victim', some researchers have suggested that the male was, in essence, responsible for his own death (e.g., Gillespie, 1989; Browne, 1987).

This purpose of this paper is to explore some issues salient to an analysis of battered women and female domestic homicide offenders in particular. In the first section, studies were reviewed that assessed the pervasiveness of domestic violence. It should be noted that some researchers have subsumed sibling violence, abuse of the elderly and child abuse under the rubric of domestic or family violence (e.g., Straus, Gelles & Steinmetz, 1980). The term domestic violence, as used here, only refers to violence between cohabitating partners unless otherwise specified. The purported incidence and severity of abuse, and a brief discussion of the perpetrators and victims of violence is also presented. Female, domestic homicide offenders are profiled to provide a general description of battered women who kill their partner. Finally, variables that appeared to differentiate female spousal

homicide offenders from battered women who do not kill their partner are discussed.

The second major section of this paper is a review of three broad theoretical perspectives that attempt to explain the occurrence of wife assault. The first position draws heavily on learning theory, and suggests that male violence and female passivity are learned behaviors. Researchers who adhere to this position have focused on the reinforcing nature of a battering relationship and the apparent intergenerational transmission of violence. The second position is rooted in a sociological perspective. Supporters of this position suggest that cultural norms and societal institutions may implicitly condone and hence perpetuate violence. Finally, the views of feminist theorists, who argue that violence against women occurs as a result of the patriarchal nature of society, are presented. These investigators attempt to identify specific factors that permit males to be violent in general, and towards female intimates in particular.

The final section of the paper is a review of some legal issues surrounding battered women who kill their partners, commencing with an historical perspective of the legal system's response to wife assault. This discussion is followed by a review of two main legal streams of defense used by offenders, together with the use and significance of expert testimony in such cases. The two experiments of this thesis were designed to examine the efficacy of some legal avenues that are currently used by female homicide offenders. These perspectives included an examination

of the diminished capacity defense of automatism and the plea of self defense. In addition, Experiment 2 assessed the hypothetical plea of psychological self defense. The influence of specific juror variables purported to affect verdict outcome were also evaluated in both Experiments. The conclusion contains a discussion of the results generated from these Experiments with reference to theoretical perspectives on wife assault.

Prevalence and Severity of Abuse

The frequency with which women are physically assaulted by an intimate partner is difficult to determine for a number of reasons. Estimates of domestic violence based solely on police records suggest that less than 1% of all couples engage in violence (Saltzman, Mercy, Rosenberg, Elsea, Napper et al., 1990; c.f., Gelles & Straus, 1988). Reliance on police records of domestic disputes is problematic, however, as it is estimated that only 14% to 66% of assaults are reported to the authorities (see review in Elk & Johnson, 1989; Gelles & Straus, 1988; Dutton, 1985; Erez, 1986; Berk, Fenstermaker-Berk, Newton & Loseke, 1984; McLeod, 1983; Truninger, 1971; Wolfgang, 1958). Consequently, reliance on police reports to determine the frequency of physical abuse between cohabiting couples may distort the actual frequency of domestic violence (Gelles, 1987; Okun, 1986; Martin, 1981).

Walker (1984), and others (Ferraro, 1989; Worden & Pollitz, 1984; McLeod, 1983), have suggested that victims' fear of reprisal, coupled with feelings of self-blame and embarrassment, are some

of the variables contributing to the failure of lodging a formal complaint. Furthermore, economic and/or social repercussions associated with legal actions against a batterer are also reported to be deterrents in reporting an assault (McLeod, 1983). Consequently, it has been suggested that many women are hesitant to take action against a batterer, particularly if the incident is considered to be isolated or minor (i.e., not resulting in injuries; Gelles & Straus, 1988; Dutton, 1988).

Walker (1984) has suggested that while accurate records of battering could not be found in police reports; medical records, divorce files, disturbance calls and psychologist's files could provide an alternative source of evidence for battering. Even in these cases, however, battering is unlikely to be referred to specifically, rendering these sources problematic in determining rates of violence. Dickstein (1988), for example, reported that the Federal Bureau of Investigation (FBI) estimated 50% of injuries to women in emergency rooms were the result of battering, however, only 4% of these cases were identified as such in medical records. Moreover, it is not clear how the FBI arrived at their estimate, rendering the validity of this statistic difficult to evaluate. Kurz and Stark (1988) have also charged the medical profession with misattributing the cause of injuries sustained by battered women (see subsequent section for review of their study). Consequently, estimates of the frequency of violence between couples gleaned from either medical or police sources are likely to underestimate the actual problem.

The definition and measurement of 'violence' has also proven to be a problem for researchers attempting to document the frequency of wife battering (Berliner, 1987). The most commonly used measure of physical violence is the Conflict Tactics Scale (CTS; Straus et al., 1980). This measure consists of 18 items that describe behaviors gradually increasing in coerciveness. The final 8 items identify behaviors deemed physically violent by Straus et al. (1980). Individuals are considered to have engaged in violence during a conflict situation if they endorsed any of the following items: threw something; pushed, grabbed or shoved; slapped; kicked, bit or hit with a fist; hit or tried to hit with something; beat up; threatened with a knife or a gun; used a knife or a gun (Straus et al., 1980). The first 4 items are considered to be a measure of moderate physical violence while the last 4 items are used as a measure of severe physical violence.

Despite the widespread application of the CTS scale, its use and construction have been severely criticised. Some investigators have disagreed with the rank ordering of items (Okun, 1986), while others have suggested that not all violent behaviors are represented on the scale (e.g., burning, choking, Walker, 1984; psychological abuse, Tolman, 1989). Alternatively, some researchers have suggested that the scale may distort the potential seriousness of certain behaviors by simply relying on frequency counts (Martin, 1981). For example, 'grabbing' a partner becomes indistinguishable from the potentially more serious behavior of 'hitting with a fist'. Similarly, actually using a

gun or a knife becomes indistinguishable from only threatening to use a weapon. Thus, the scale confounds verbal threats with potentially lethal behavior.

An additional criticism of the CTS, which will be elaborated on in a subsequent section, is that frequency data does not allow events prior to the violent incident to be considered or the resulting consequences of such behavior to be assessed. Thus, conflicting interpretations of data generated from the CTS have been made. For example, the most frequent behavior engaged in by women is kicking and biting (Straus et al., 1980). This has led Walker (1984) to suggest that such behaviors are primarily a defensive strategy used by women to defend themselves. However, such an hypothesis cannot be evaluated as frequency data generated by the CTS does not provide any indication as to the actors motivations for their aggressive behavior.

A final caveat to use of the CTS concerns its reliance on subjective report (Straus et al., 1980; Gelles & Straus, 1988; Gelles, 1987). Some concern has been raised regarding the accuracy of the information reported and the conclusions that can be drawn from such data. Although deficient in some respects and ambiguous in others, the CTS provides the best available estimates of the frequency of domestic violence using normative samples. However, it should be clear from the previous discussion that documenting and interpreting domestic violence based on data collected with the the CTS is problematic.

The results from a national, face to face survey of 2,146 randomly selected American families conducted in 1975 (Straus et al., (1980) and replicated in 1985 (Gelles & Straus, 1988) revealed that approximately 28% of couples interviewed had engaged in some form of physical violence during the course of their relationship as measured by the CTS. Approximately 16% of respondents reported that violent acts had occurred in the year prior to interview (Straus et al., 1980; Gelles & Straus, 1988). In addition, Straus et al. (1980) estimated that 3% to 4% of couples engaged in severe forms of violence as measured by the CTS. Similar rates of severe violence (i.e., 3.4%) as measured by the CTS were determined in a random sample of 1,471 Utah households (Rollins & Oheneba-Sakyi, 1990).

Gelles (1987), like Straus et al. (1980) also interviewed a normative sample, although his sample size was small (i.e., $n=40$). He found that 35% of couples reported using violence, as measured by the CTS, at least once during the course of their relationship. Dobash & Dobash (1979) reported similar figures for couples based on extrapolations from police reports in Great Britian (i.e., 25%). In Canada, the percentage of women in a cohabiting relationship who reported being physically abused range from 10% in Ontario (MacLeod, 1980), to 40% in Saskatchewan (McGillivray, 1987). However, the rate of abuse was higher for specific groups of women. For example, 7 out of 10 native women in Saskatchewan reported being physically abused by their partner (McGillivray, 1987). A recent survey of students

at a Canadian university revealed that 26% of female students interviewed endorsed at least one violent behavior and approximately 5% endorsed items that indicated severe physical violence as measured by the CTS in the year prior to the study (Kasian & Painter, in press).

The severity, like the incidence levels of physical violence between couples, is also difficult to determine. The most frequent index of severity is also the CTS, and estimates from this measure suggest that between 3% to 5% of intimate partners engage in severe violent behavior on a yearly basis (Gelles & Straus, 1988; Rollins & Oheneba-Sakyi, 1990). It will be recalled that researchers have criticised the CTS' ability to evaluate abuse severity (see previous discussion). Consequently, some researchers have relied on the infliction of injuries as a measure of the severity of abusive attacks (Browne, 1987; Walker, 1984).

Data collected from 72,000 households for the American National Crime Survey (ANCS) comparing assaults involving intimates to assaults involving strangers suggested that 54% of victims sustained injuries when the assailant was a stranger while 75% of victims were injured when the attacker was a family member (Fields, 1978). The differences between groups cannot be explained by the possibility that because the victim knew the attacker, they were more likely to resist attack, and consequently suffered more injuries as a result. In fact, data collected by the ANCS also provided evidence to suggest that spouse abuse victims resisted attacks to the same degree as other victims (Fields, 1978).

Saltzman et al. (1990) observed that 40% of reported assaults between intimate partners resulted in injury and 10% required emergency room treatment. Erez (1986) provided evidence to suggest that 25% of all reported domestic assaults compiled from 28 police departments resulted in the victim being hospitalized (see also Dutton, 1988). Canadian police records show that 75% of all policemen injured on the job were hurt while responding to a domestic dispute call (McGillivray, 1987). Furthermore, 15% of all policemen killed on duty died as a direct consequence of intervening in domestic disputes between spouses (Dutton, 1985). Thus, even if conservative estimates of the prevalence and severity of wife assault are accepted, the proportion of police and medical resources used to respond to domestic disputes, and the resultant injuries suffered by female spouses, is substantial.

Perpetrators and Victims of Violence

Considerable debate among researchers in the family violence field has focused on attempts to assess responsibility for the instigation of domestic violence (e.g., Berliner, 1990; McNeely, 1990). In part, this issue has become obfuscated by political motivations, since the probability of a group receiving financial support (e.g., women's shelter vs. marital counselling services) is somewhat dependent on who is deemed to be the 'victim'. Because the majority of studies were conducted by investigators sympathetic to the concerns of battered women, it is not surprising the findings of these studies have suggested that

women are exclusively the victims and never the perpetrators of violence in domestic disputes (e.g., Walker, 1984; Pagelow, 1981; Dobash & Dobash, 1979; Okun, 1986). However, a more balanced assessment of the results from investigations suggests that such a conclusion is not unanimously supported. Evidence from at least three studies contradicts this position (see also Makepeace, 1981; Stets & Pirog-Good, 1987; Kasian & Painter, in press). The results from the investigations of Steinmetz (1977), Straus et al. (1980) and Rollins and Oheneba-Sakyi (1990) suggested that women were just as likely as men to use violence (see also reviews in McNeely & Robinson-Simpson, 1987; Shupe, Stacey & Hazelwood, 1987). In response to these claims, feminist groups in particular have severely criticised the methodology and the conclusions of these investigations in an effort to discredit the findings. The following discussion is a review of both the results generated from studies supporting the concept of mutual violence and the response of specific interest groups to such claims.

In support of the claim that females are as violent as males, Straus et al. (1980) reported that of all the violence identified in his sample, 25% was engaged in solely by males and 25% solely by females. The remaining 50% was described as mutual combat. Rollins and Oheneba-Sakyi (1990) reported that wives were actually more violent to their husbands (i.e., 5.3%) than husbands were to their wives (i.e., 3.4%). Furthermore, the proportion of domestic homicides that resulted in the death of a spouse (Homicide in Canada, 1989; Habib, January 22, 1991), and the

seriousness of injuries incurred by males in domestic disputes (McLeod, 1983), have also been used to support the notion that females are just as likely to be violent as males.

Researchers who have criticised the concept of mutual combat suggested that such studies suffer from a number of methodological flaws (Bograd, 1990; Saunders, 1988; Walker, 1984; Browne, 1987; Okun, 1986; Martin, 1981; Pagelow, 1981). The first issue contested by some researchers is the generalizability of Straus et al.'s (1980) findings. For example, although Straus et al. (1980) generalized from his sample to the population, his sample was restricted to couples living together. In studies where ex-husbands or divorcing couples are included, physical violence has been reported to increase to three times the levels reported for married couples (Fields, 1978).

Walker (1984) suggested that the discrepancy in reported rates of violence between studies that included divorcing couples (Fields, 1978) and those that did not (Straus et al., 1980) could be accounted for by the clinical observation that abusive males often resorted to violence in an effort to coerce their partners to return to them (see also Gillespie, 1989). Consequently, the frequency of violence was likely to increase in situations where the woman attempted to leave, or had left, her partner. Alternatively, women who were divorcing or separating from their partners may have been more willing and likely to report incidents of violence. This interpretation is supported by the finding that separated women reported attempted assaults to the police more frequently than

women who were still married (McLeod, 1983). Since both Fields (1978) and Straus et al. (1980) relied strictly on self report, it is difficult to evaluate the effect of marital status on the propensity to commit violence.

The information from the participants in both Straus et al.'s (1980) study and Steinmetz's (1977) investigation were obtained from only one partner, and it is not clear whether the individual was male or female. In addition, no effort was made to corroborate the data. Consequently, the accuracy of the reports has been called into question (see Okun, 1986). Tolman (1989) found that male batterers litigated to treatment for abuse severely underestimated the frequency and seriousness of their attacks as compared to reports from their partners. It could be argued that women were just as likely to overestimate the frequency and severity of the attacks. However, Walker (1984) and others (e.g., Gillespie, 1989; Browne, 1987) have suggested that the opposite is true. Based on clinical reports Walker (1984), for example, has argued that women may under report the severity of attacks in an attempt to cope with abusive behavior. However, there is no empirical evidence available to support this contention.

The results generated by Rollins and Oheneba-Sakyi (1990) suggested that reports of violence differed significantly depending on the party questioned. For example, men reported that severe violence was used three times as often against them by their wives, as compared to the amount used by them. Conversely,

reports from women indicated that women were only slightly more likely to use severe violence as compared to men. The observation that reports vary as a function of gender tends to support concerns regarding the reliability of cross gender report measures. The finding that both sexes reported that women used severe violence more frequently than men is discussed below.

Finally, studies supporting the concept of mutual violence have typically relied on data generated from the CTS (Gelles & Straus, 1988; Rollins & Oheneba-Sakyi, 1990). It will be recalled that the CTS has been criticised for not assessing events antecedent to the assault, and specifically whether women used violence as a means of self defense. Rather than use the reported frequency of female violence as an indication that females are just as likely to use violence as men, some researchers have suggested that women had to use violence in order to protect themselves from male violence (e.g., Walker, 1984). Thus, the finding that women engage in deadly force, and use a weapon more frequently than males, has been used to support the notion that women are responding to male violence in self defense. Some investigators have argued, for example, that if women do not use weapons, they are unable to adequately defend themselves (Saunders, 1988; Walker, 1984; Browne, 1987).

Evidence to support the hypothesis that women use weapons or deadly force to protect themselves against abusive male partners has been obtained from situations where women have not used weapons. Browne (1987) observed, for example,

that in 95% of the cases involving what Straus and associates would consider mutual combat, it is the woman who is injured (see also, previous discussion). Similarly, Saunders (1988) noted that 1 man was hospitalized for every 46 female victims of a domestic dispute. This is contrasted with the findings of McLeod (1983) who reported that in her sample, no males were injured unless a gun or a knife was used. It should be noted, however, that consequences resulting from the use of violence do not necessarily indicate that women were merely victims of male violence. What these findings do support is the notion that men, because of their physical advantage, were more likely to inflict injury upon female partners, and were less likely to be injured as a result of female violence, unless a weapon was employed.

The results of Rollins and Oheneba-Sakyi (1990) partially support the position that women engage in violent acts as a means of self defense. Of the women who reported using severe violence against their husbands, 50% claimed their husbands used an equivalent level of violence against them. However, only 8% of the husbands reported using severe violence in response to their wives behavior. It is not clear from this report why the remaining percentage of women engaged in violent acts towards their husbands, although it is possible that they were also responding to male violence. For example, if a woman threatened her husband with a gun to prevent an assault, her behavior would indicate 'severe violence' while her husband's behavior would go unreported (as measured by the CTS).

The majority of researchers in the family violence field maintain that women are more likely to be the victims of assault than men. Okun (1986) reported that the National Crime Survey found a rate of 13 wives assaulted for every male; Dobash and Dobash (1979) reported a ratio of 66:1; and Martin (1981) provided a range of estimates, from 3:1 to 19:1. Although these reports seem to suggest that the propensity of males to commit violence is greater than that of women, the samples used to obtain these data and the measures used to assess violent behavior make definitive statements regarding the perpetrators of violence difficult.

Battered Women

Early domestic violence research efforts were directed primarily at determining who battered women were and why they stayed in an abusive relationship. To this end, Walker (1979, 1984) was one of the first psychologists to systematically interview a large number of self identified battered woman. As Walker's investigations have played such a prominent role in the family violence field, the methodology employed in her 1984 study will be reviewed in detail.

A total of 403 subjects were solicited from a variety of sources in an attempt to obtain a representative sample of battered women (e.g., radio announcements, hospital emergency rooms, judges, community groups and private attorneys). In addition, Walker (1984) used direct contact methods with

minority groups to ensure their inclusion in the sample (e.g., interviewing women on Indian reservations; requesting interviews from women in prison). A woman was included if her initial responses indicated that she had been abused on more than one occasion, regardless of whether or not injury occurred. Abuse was defined as physical attack on more than one occasion, excessive jealousy, extreme verbal harassment, restriction of activity through physical or psychological means or sexual assault (p. 203).

A direct comparison group was not utilized. However, when possible, Walker compared the results from her population to normative data (e.g., Minnesota Multiphasic Personality Inventory, MMPI; National socio-demographic information). Battered women's accounts of their experiences with a non-battering partner were also used, if available, for comparison purposes. In addition, the women provided demographic and personal information about the batterer, (e.g., criminal history), although no attempt was made to confirm information provided. In addition to completing a number of standard psychological measures (e.g., MMPI), women were asked to recount their first, second, worst and most recent battering experience. Trained personnel recorded and scored responses.

The results from Walker's investigations, and others (Dobash & Dobash, 1979; Pagelow, 1981; Pizzey, 1974) raised questions about several commonly held beliefs concerning battered women. Walker (1984) found, for example, that the socio-economic

distribution of battered women was comparable to national statistics; suggesting that battered women were not confined to the lower socio-economic strata (c.f., Straus et al. 1980). However, it should be noted that Walker (1984) specifically selected her sample to include women from a variety of circumstances, thus the results are confounded to some extent with the selection process (p. 204).

Walker postulated that, women from lower socio-economic backgrounds tended to be over represented in research reports because of their reliance on public assistance programs, such as shelters and the police (e.g., Okun, 1986; Dobash & Dobash, 1979; Pagelow, 1981). Women from higher socio-economic groups, Walker suggested, were more likely to enlist the support of families members, medical doctors, private counselling agencies or lawyers for help. At first glance, this hypothesis is supported by the work of Geller and Walsh (1978) who collected data from 4600 victims using a phone in service in New York. Approximately 96% of callers were labelled battered women and the reported mean income and education levels of women using these counselling services was well above the National Standard for that time. However, Geller and Walsh (1978) did not report the criteria used to classify callers as battered women, or whether the counsellors, the researchers or the women themselves were making the classification. Consequently, it is difficult to determine the validity of Geller and Walsh's (1978) finding.

Women from ethnic minorities were also thought to be overrepresented in surveys directed at estimating the frequency of spousal violence. Straus et al. (1980), for example, suggested that domestic violence among black Americans was 400% higher than for white Americans. Similarly, rates of violence for native Canadians have been identified as higher than for non-native Canadians (McGillivray, 1987). A review of the literature on 'black battered women', however, revealed that rates of black spousal violence were similar to rates for whites if comparisons were made within socio-economic strata (Coley & Beckett, 1988). Thus, these findings support the notion that spousal violence occurs in similar proportions across ethnic groups and occurred most frequently among couples from lower socio-economic levels. However, contrary to Walker's earlier hypothesis that socio-economic status has no relationship to the propensity of couples to engage in violence, these findings suggest that socio-economic variables are a factor in the pervasiveness of violence between intimate partners (see also Straus et al., 1980).

Substance use and the propensity to commit violence appear to be highly correlated. Most studies have reported that violence most frequently occurred when the perpetrator was under the influence of alcohol, and that injuries inflicted in such cases were more severe than if alcohol or drugs were not involved (Walker, 1984; Gelles & Straus, 1988; Roberts, 1987; Browne, 1987). Indeed, Gorney (1989) concluded that between 60% to 70% of violent episodes occurred while the batterer was intoxicated.

There is evidence to suggest, however, that abusive males are also violent to their spouses when they are sober (Gelles & Straus, 1988; Walker, 1984; Browne, 1987). This has led some investigators to view substance use primarily as a catalyst rather than a causal factor in spouse abuse (Browne, 1987; Gelles & Straus, 1988; Walker, 1984; Martin, 1981).

Traditionally, it was hypothesized that women who remained in a battering relationship suffered from low self esteem, were emotionally dependant on their abusers and held rigid sex role stereotypes (Martin, 1983; Walker, 1979). However, results from Walker's (1984) study revealed that women in battering relationships did not rate themselves lower on measures of self esteem, did not differ on measures of locus of control or hold more traditional views of sex roles when their scores were compared to normative data. Walker (1984) also found that, judging from verbal reports, there was no evidence to support the notion that battered women enjoy being beaten, went from one battering relationship to another, or were sexually aroused by violence. The only psychopathology identified in her sample was a tendency for battered women to show a higher incidence of depression relative to the general population (see also Kalichman, 1988). However, it is not possible to determine from her study whether depression was secondary to physical abuse or a feature of the premorbid history of the individual.

Walker's (1984) study has been criticised on methodological grounds. For example, one of the difficulties associated with the

Walker's (1984) study, as well as others (Pagelow, 1981; Dobash & Dobash, 1979), is reliance on self-report. This issue was compounded by Walker's observation that most battered women displayed response styles suggestive of approval seeking and compliance. Such behavior was evidenced by inconsistent reporting on forced choice questions as well as interviewers' perceptions of the battered women's behavior. These considerations raise serious questions about the validity of Walker's data. In addition, Walker's decision not to use a control group raises questions about the generalizability of these data. These criticisms will be discussed in a subsequent section.

Battered Woman Who Kill

Women commit approximately 15% of all murders in the United States (Jones, 1980) and in 50% of these cases the victim is either the woman's husband, lover or common law spouse (Mann, 1989). In Canada, females commit approximately 10% of all homicides and of these, almost half involve the death of an intimate partner (Chase, 1989; Homicide in Canada, 1989). For native Canadians, however, almost 70% of homicides committed by females were domestically related (Johnson, 1986).

American males were responsible for twice as many spousal homicides as women (Browne, 1987), while Canadian males committed approximately three times the number of spousal homicides as females. In addition, males were likely to use a more severe and violent method of homicide than women (Wolfgang,

1958). For example, women typically relied on the singular use of a weapon (i.e., gun or knife) while men generally beat their spouse to death with their fists (Wolfgang, 1958). Gillespie (1989), using case studies, also noted that female homicide victims were often beaten over a period of hours prior to death.

Investigations of female homicide offenders have suggested that women who killed their partner had been victims of battering at or near the time of the incident. Consequently, several researchers have suggested that female domestic homicide offenders were attempting to protect themselves from either imminent attack or physical abuse in the near future (Wolfgang, 1958; Ewing, 1987; Browne, 1987; Mann, 1989; Gillespie, 1989; Chimbos, 1978). Wolfgang (1958), for example, reported that 49% of his sample of males struck the first blow on the occasion that ultimately resulted in death when they were killed by a female. In a replication of Wolfgang's study, Goetting (1989) reported that 71% of the male homicide victims precipitated their own death as determined by police reports. Female domestic homicide offenders were approximately seven times as likely to argue that they resorted to violence in order to defend either themselves or their children as compared to male domestic homicide offenders (Gillespie, 1989; Wolfgang, 1958). Thus, the results of investigations by Goetting (1989) and others (Wolfgang, 1958; Browne, 1987) suggested that the antecedents to female spousal homicide were potentially different from the causes of male violence.

Walker (1984) suggested that woman who killed their partners are likely at the extreme end of a continuum of violence perpetrated by male abusers and that the potential for deadly force needs to be recognized in all battering relationships. Contrary to this position, however, is evidence to suggest that certain variables appear to differentiate cases of female perpetrated domestic homicide from cases that do not end in homicide. For example, evidence provided by Walker (1984) suggested that female homicide offenders were more likely than battered women who did not kill to be from lower socio-economic backgrounds, have less education, were more likely to have children in the home and to have access to weapons. Similar findings were reported by Chimbos (1978), Mann (1989), Browne (1987) and Wolfgang (1958). In addition, several researchers have reported that in the United States, victims and offenders were disproportionately black (Wolfgang, 1958; Goetting, 1989).

The following profile of battered women who kill is a composite of information from several researchers (e.g., Walker, 1984; Goetting, 1988; Browne, 1987; Mann, 1989; Jones, 1980; Gillespie, 1989). It should be noted that although no two cases are identical, several common patterns of violence emerge. Perhaps, most notably, the behavior of the male is seemingly consistent across situations. It should be noted, however, that because most of the information available on female domestic homicide offenders is based on case reports or limited samples (exceptions: Wolfgang, 1958; Goetting, 1989), cases selected are more likely to

be dramatic, as opposed to representative, of domestic homicide cases.

Available evidence to date suggested that the homicide was most likely to occur in the woman's place of residence, on the weekend and in the late evenings (Walker, 1984; Mann, 1989; Homicide in Canada, 1989). Battered women were typically involved in a common law relationship with the abuser (Mann, 1989) for a period of 6 years (Walker, 1984). Female offenders were as likely to use a gun as a knife (Jones, 1980; Browne, 1987; Goetting, 1988; Homicide in Canada, 1989), although the use of guns is becoming more frequent in the United States (Mann, 1989). Female domestic homicide perpetrators tended to be older than nondomestic female homicide offenders (38 years of age compared to 29 years of age; Mann, 1989). Between 30% to 60% of the victims and perpetrators had a criminal record (Saltzman et al., 1990; Goetting, 1989; Bern, 1985). Criminal records for male domestic homicide victims were more likely to include a violent offence charge than males homicide victims in general (Daniel & Holcomb, 1985; Wolfgang, 1958). In the United States, the majority of defendants were black or hispanic, had less education and came from lower socio-economic levels (Mann, 1989; Wolfgang, 1967). Chimbos (1978) reported that all of the small number of Canadian female homicide offenders available for his study (i.e., $n = 5$) had less than 10 years of education and were not in the labor force at the time of the homicide. Both the offender and the victim were likely to be under the influence of alcohol or

drugs at the time of the incident (Chimbos, 1978; Wolfgang, 1958; Walker, 1984; Browne, 1987).

Violence perpetrated against the female tended to increase after the woman had, on average, attempted to enlist the help of the police five times (Browne, 1987). Female offenders also consistently reported that their partner had threatened to either kill them, or someone close to them (Chimbos, 1978). As most of these women were either appealing their sentence or awaiting trial, their reports may have been influenced by attempting to present their case in a favorable way (see Browne, 1987). It has been noted, however, that death threats have been reported to be a common tactic of abusive men (Walker, 1984; Gillespie, 1989; Pagelow, 1981; Dobash & Dobash, 1979).

One of the most striking difference between battered women who killed the abuser and those who did not, was the frequency and severity of the violent acts carried out against them. Browne (1987) compared a group of female homicide offenders to a group of battered women who did not kill. It should be noted that the comparison group was a subsample of the battered women identified in Walker's (1984) study. Browne did attempt to corroborate self reports from both groups using a variety of methods including, medical records, police reports and witnesses. Although there was no empirical measurement of reliability, the discrepancies between self report and objective measures of abuse were usually in the direction of

understatement in terms of the women's recollections of injuries received and the frequency of violent episodes.

Browne (1987) observed that the kind of violence perpetrated against women who killed and those that did not kill did not differ. Nevertheless, the homicide offenders had been subjected to more frequent attacks and had sustained more severe injuries than battered women who did not kill their intimate partners. For example, female homicide offenders were likely to have received multiple injuries as a result of scalding, beating and strangulation during the course of a 'single' incident (Browne, 1987). In 40% of the homicide cases, as compared to 13% of the comparison group, severe physical abuse as described above occurred at least once a week. Gillespie (1989) also reported, based on case histories, that forced sexual intercourse often accompanied physical assault and was characterized by "choking and bashing the women's head against solid objects" (p. 126). However, the generalizability of case histories, as previously noted, is likely to be limited.

Theoretical Explanations

Several attempts have been made to explain battering. Research efforts prior to the 1970's focused primarily on the purported psychopathology of the battered woman. Psychoanalysts, for example, suggested that battered women needed to be abused in order to achieve sexual gratification (e.g., Snell, Rosenwald & Robey, 1964). According to the psychiatric

viewpoint, a battered woman was a social deviant who provoked and enjoyed physical abuse. Consequently, battered women were viewed as willing participants in the abusive relationship (see review in Okun, 1986). In general, the psychiatric profession fostered the views that battered women are masochistic (see review in Caplan, 1985) or mentally ill (see review in Rosewater, 1988).

In the early 1970's, however, psychiatric interpretations of wife battering were challenged (Dobash & Dobash, 1979; Walker, 1979). Research efforts were largely directed at determining who battered women were and why they remained in battering relationships. Consequently, investigations attempted to identify psychological and social factors that prevented the termination of abusive relationships. Such studies frequently used case histories and samples of women drawn from battered women's shelters (Walker, 1979; Dobash & Dobash, 1979; Pagelow, 1981). Theories derived from these research efforts attempted to explain the behavior of battered women by relying on existing theories developed primarily by psychologists.

Normative sampling techniques were also used to determine the interaction patterns between victims and perpetrators, as well as between victims and social systems that were purported to maintain violent relationships (Straus et al., 1980; Dutton, 1988). Systems theory suggested that violence between spouses followed from the dynamics of the interaction between the individuals involved (Giles-Sims, 1983). Violence between spouses was

viewed as mutual and a systems approach was used to explain male violence against women and female violence against males. Violence between spouses, in turn, was viewed within the larger context of family violence (e.g., child abuse; elder abuse) which was hypothesized to be a microcosm of societal violence.

The following section will briefly review learning theory accounts for male violence against women. A systems theory approach, adopted from sociology, will also be explored to examine how social systems and cultural factors perpetuate the use of violence in society. Both learning theory and sociological explanations of wife assault consider sexual inequality as an important contributor to the occurrence of wife assault. Feminist analyses of wife assault, stress the importance of the patriarchal structure of society in permitting and condoning violence against women, but totally rejects the notion of mutual violence between spouses. Thus, although feminist analyses of wife assault are consistent in some respects with both learning theory and a systems approach to domestic violence, a feminist perspective also differs fundamentally from these other approaches. Consequently, feminist perspectives on wife abuse will be reviewed separately.

Learning Theory Explanation of Wife Battering

Walker (1979, 1984) attempted to determine why women who are neither mentally ill nor masochistic failed to leave their partners. She formulated a theoretical model based on the battered woman syndrome to explain the unique psychological

and behavioral reactions of women living with an abusive partner. The battered women syndrome has been used to explain the apparent passivity of women in abusive situations. In addition, the syndrome has been used to explain why women in battering relationships either direct aggression outwards (i.e., homicide offenders, child abusers) or, more frequently, engage in self-destructive behaviors (i.e., suicide, depression, drug and alcohol abuse). The theoretical model of the battered woman syndrome is composed of two major constructs based on learning theory; the theory of learned helplessness and the cycle theory of violence. Each component of Walker's (1979) theory will be presented in turn.

Learned Helplessness

The concept of learned helplessness originated with the work of Maier and Seligman (1976) who found that animals previously exposed to uncontrollable shock displayed marked deficits in escape behavior on subsequent trials. Such behavioral deficits were not observed in animals exposed to controllable shock. These observations led Maier and Seligman to postulate that animals exposed to uncontrollable stressors learned response outcome independence (i.e., learned helplessness). In other words, animals perceived a lack of control over events and consequently responded passively to future aversive stimulation.

Walker (1979; 1984) used learned helplessness theory to suggest that over the course of an abusive relationship, battered women came to recognize their inability to control the abuse. As a

result, their motivation to escape or to attempt to prevent future abuse was reduced. In essence, Walker suggested that battered women learned to be helpless.

Walker also suggested that learned helplessness could develop as a result of childhood experiences. Data in support of this hypothesis is equivocal. Walker (1984), like Roy (1977) found that a significant proportion of battered women reported physical and/or sexual abuse during childhood (i.e., 66%). However, other investigators, found lower levels of childhood abuse in the history of battered woman (i.e., approximately 30%; Wasileski, Callaghan-Chaffee & Chaffee, 1982; Straus et al., 1980; Kasian & Painter, in press). Consequently, the relationship between being abused as a child and the propensity to become involved in an abusive relationship as an adult, has not been resolved. Walker's own statistical analysis, however, found only a weak relationship between childhood experiences and measures of learned helplessness ($r = .24$).

Walker hypothesized that women involved in an abusive relationship would exhibit more learned helplessness behavior than women terminating an abusive relationship. To assess this hypothesis Walker obtained a composite score of subject's reports of: (a) anger, disgust and hostility and; (b) fear, anxiety and depression measured over the course of the first, second and last battering episodes (i.e., higher scores indicated less learned helplessness). It is not clear why these particular variables were chosen. Women still in an abusive relationship were compared to

those no longer involved with an abusive mate. The size of each group and the criteria used to determine relationship status were not provided. Although no statistical analyses were completed, Walker observed that women leaving a battering relationship reported higher scores on both composite measures than women still involved in an abusive relationship. The differences between the groups appeared quite small, however, with the largest difference between groups being .3 on a 4 point scale. Given the obvious limitations of this study, it is unclear whether Walker's data provide any support for the notion that abused women suffer from learned helplessness.

The concept of battered women as helpless has received considerable criticism from researchers in the field of family violence. Gondolf and Fisher (1988), for example, suggested that a learned helplessness description of battered women simply implies a form of female masochism (see also Loseke & Cahill, 1984). According to this interpretation, learned helplessness theory suggests that battered women are acting as passive recipients of abuse in order to fulfill self perceptions of worthlessness. Gondolf and Fisher (1988) noted that intervention strategies for battered women, perceived to be 'helpless', have primarily focused on the psychopathology of the woman (e.g., encouraging assertive behavior, development of self esteem; Walker, 1984). Consequently, Gondolf and Fisher (1988) and others (e.g., Bograd, 1988) suggested that such an interpretation applied to battered women promotes victim blaming.

There is also some evidence to support the hypothesis that the learned helplessness label is misleading. On the basis of interviews with over 300 shelter residents, Okun (1986) observed that women in battering situations consistently attempted to leave and/ or to obtain outside help (see also Gelles & Straus, 1988). The majority of women in the shelter, for example, had previously left their partners five times on average. They usually returned to the batterer following sustained threats against either their own person or members of the family, a belief in the batterer's apologies or simply because they had no where else to go (Okun, 1986; Walker, 1984).

A further example of women's attempts to bring in outside help is evidenced in cases where battered women kill their partner. As previously discussed, police had previously been called to the residence at least once in 95% of the cases and more than five times in 54% of the cases prior to the woman killing her spouse (Browne, 1987). Okun (1986) suggested that there is a lessening in help seeking behavior only after efforts have failed to bring relief from battering. In these situations, women were likely to rely on themselves to prevent battering, even to the point of using deadly force (Gillespie, 1989). Such behavior appears to be clearly inconsistent with a learned helplessness position. Rather than viewing women as suffering from "learned helplessness", Gondolf and Fisher (1988) have suggested that a survivor hypothesis more accurately describes the behavior of battered women.

Faigman (1986) also criticised the applicability of learned helplessness theory to the actions of battered women; particularly in situations where the abused woman is charged with homicide. Faigman (1986) like Gondolf and Fisher, (1988), argued that the use of deadly force is the antithesis of a learned helplessness. Furthermore, Faigman criticised Walker's (1984) conclusion that battered women who stay with their abusers are suffering from learned helplessness to a greater degree than those who leave by noting that the differences between these groups in behaviors presumably indicative of 'learned helplessness' were neither statistically analysed nor theoretically derived (i.e., a compound score was assigned for anxiety, disgust and hostility). Faigman (1986) argued that there are no theoretical reasons to indicate that these measures are indicative of learned helplessness. In addition, Walker (1984) herself noted that battered women did not rate themselves lower on self esteem measures relative to non-battered women; a prediction inconsistent with learned helplessness theory. Taken together, the appropriateness and the conclusions from Walker's (1984) data on learned helplessness theory as applied to battered women seem to be questionable.

Cycle Theory of Violence

The second theoretical component of Walker's research is the cycle theory of violence (Walker, 1984). This component of the battered woman syndrome is characterized by three stages. During stage 1, the tension building phase, there is a gradual building of tension characterized by name calling and possibly

minor abusive incidents. According to Walker, women often attempt, at this point, to placate the batterer in order to divert or postpone a beating. However, such efforts only serve to increase the tension between the partners. Alternatively, the woman may provoke a beating in an effort to avoid a prolonged anticipatory period or to maintain a sense of control over the situation (c.f., concept of masochism). In stage 2, the acute battering stage, the tension erupts and often severe physical injury is sustained by the woman. However, following the battering, tension is effectively reduced for both partners, thus reinforcing the use of violent behavior. In the final stage, (stage 3) referred to as the loving contrition stage, the batterer often apologizes for the abuse and attempts to assure the victim that he will never be violent again. He may also suggest between apologies, that the beating was a result of her failure to do something. Consequently, the abuser offers his victim a hypothetical means of controlling the abuse in the future.

According to the cycle theory of violence, a situation has been created reminiscent of an intermittent reinforcement schedule in learning theory (c.f., paradoxical punishment; Long & McNamara, 1989). The alternation between positive and negative behaviors acts as a powerful motivator to encourage the woman to increase behaviors that result in positive attention (Stage 3) and to avoid reprisals (Stage 2) or a replay of the anxiety apparent in Stage 1. A critical component of this theory is that the cycle repeats itself with less time between incidents of battering.

Walker (1984) cites evidence to suggest that physical abuse becomes more severe over time and that fewer attempts to apologize or make amends for the abuse are made by the abuser.

Walker hypothesized that when the ratio between the tension building phase and the loving contrition stage were no longer equal, the battered women would attempt to leave the relationship. However, the means of leaving were often not available or viable to battered women (i.e., reasons include: economic, emotional dependancy; welfare of children; lack of support from social or legal agencies). Gillespie (1989) and others (Browne, 1987; Walker, 1984; Strube & Barbour, 1983) noted that tension, as measured by an increase in the frequency of violent episodes, tends to escalate if the woman attempts to leave the batterer. Consequently, the likelihood of the cycle reoccurring is increased.

The cycle theory of violence has received some support from researchers and clinicians in the family violence field (Okun, 1986; Martin, 1981; Dutton & Painter, 1981). However, support has not been unanimous. Dobash and Dobash (1984), for example, assessed the antecedents immediately preceeding violent behavior and the consequences associated with such behavior. Contrary to the prediction of the cycle theory of violence, Dobash and Dobash (1984) reported that other than following the initial violent incident, there was no evidence for a loving contrition stage. In addition, Walker (1984) failed to provide a time frame

for the occurrence of these stages which significantly weakens the predictive power of her model (Faigman, 1986).

Some criticism has also been levied at Walker's (1984) research design which provided the initial data advancing a cycle theory of violence. Faigman (1986), for example, noted that evidence of either a tension building phase or a loving contrition stage was not gleaned directly from battered women's accounts of violent episodes, but from interviewers interpretations of self reports. Consequently, such responses were susceptible to experimenter bias. Similarly, no data were gathered on tension building episodes that did not produce violence, or the effects of tension in non-battering relationships. These methodological shortcomings seriously limit the generalizability of the theory (Faigman, 1986).

Some researchers have suggested that tension does not necessarily stem solely from the relationship. Instead, domestic violence can be viewed as a result of external stressors, including poverty and unemployment (Gelles & Straus, 1988; Howell & Pugliese, 1988; Humphery & Palmer, 1982; Rogers, 1988). It is argued that the frustration elicited by such stressors, and the lack of appropriate social support systems to help cope with such stress, are possible sources of tension. This tension, in turn, may purportedly lead to domestic violence (Gelles & Straus, 1988; see discussion below). This explanation of interspousal violence leads to the second major theoretical explanation of wife assault,

namely, models that focus on social institutions and cultural norms.

Sociological Explanations of Wife Assault

The second major theoretical perspective directed at explaining women abuse is described primarily by sociologists (e.g., Straus et al., 1980; Gelles, 1987; see also Dutton, 1988). These investigators argue that wife assault and others forms of family violence (i.e., child abuse, husband abuse, elder abuse) are engendered by the social organization of society. Two aspects of social structure considered to be of particular importance in this regard are social organizations that promote violence and cultural norms or values that ignore violence (Bograd, 1988). Violence in this context is viewed as a problem of both sexes and the equal propensity for men and women to engage in violent behavior is used as support for this position (Straus et al.'s, 1980).

There has been a considerable evidence generated in recent years to support the contention that social institutions, including religious organizations, the criminal justice system and the medical profession, have largely ignored or tacitly condoned violence within the family, and against women in particular. For example, many facets of the criminal justice system (i.e., law enforcement agencies, judicial departments and parliamentary law makers) have been criticised for failing to respond appropriately to the needs of battered women (Martin, 1981). In

particular, the police response to the issue of family violence has received considerable attention.

Statistics on response and arrest rates following domestic dispute calls have been used to support the contention that the police have failed to take violence between intimate partners seriously. Oppenlander (1982), for example, observed that police response time was slower for domestic dispute calls than for calls to other types of conflict situations. Gillespie (1989) cited a national study conducted by the United States Civil Right Commission in 1981 that found 17% of calls to the police from battered women were ignored and of those responded to, only 4% resulted in court action. These figures are supported by the work of Gelles and Straus (1988) who found that of 800 calls placed to the police in the year prior to their study, only five resulted in litigation and none of the defendants in these cases were incarcerated. Erez (1986) surveyed 28 police departments and reported that only 206 (12%) arrests occurred following 1774 domestic dispute calls. It should be noted, however, that no comparable statistics were provided on arrest rates for other types of disturbance calls.

Worden and Pollitz (1984) argued that familiarity between disputants was less important in the decision to arrest than were situational characteristics, such as the observation of injuries. In support of this contention, Worden and Pollitz (1984) reported that arrest frequency decreased between intimate partners only if no injuries were incurred by the participants. However, results

from a survey of battered women in California suggested that police were unlikely to arrest a perpetrator even in cases involving severe injury if the participants were related. Berk and Newton (1986) reported that although 80% of the records reviewed indicated the women had sustained a severe injury, arrests only occurred in one half of the cases surveyed. Similarly, Erez (1986) found that the use of a gun or a knife during disputes did not increase the likelihood of arrest following a domestic dispute call. Taken together, these data support the contention that the criminal justice system, and the police in particular, have not responded adequately to domestic dispute situations. (See ensuing section for police rebuttal to charges of indifference to wife assault and the consequences of policy changes on police response to domestic violence).

Several researchers have also cited the indifference displayed by the medical community (i.e., doctors, nurses, hospital administrators) in responding effectively to battered women (Stark, Flitcraft & Frazier, 1979). Unlike cases of child abuse, for example, there is no legal mandate requiring medical personnel to report suspected cases of wife assault (Adamowski, 1987; Brozowski, 1990). Gelles and Straus (1988) argued that by failing to document the frequency of injuries resulting from wife assault, the medical community has perpetuated wife abuse rather than prevented its occurrence.

Kurz and Stark (1988) conducted a study to assess the medical response to battered woman. Based on information

provided in medical records, they classified the source of women's injuries as due either to battering or to other causes. They reported that only 4.5% of the injuries produced by battering were correctly identified in an emergency room setting. Unfortunately, these investigators failed to obtain independent corroboration for their classification of women's injuries as due to battering. Consequently, it is conceivable that their results were biased in terms of their hypothesis and thus it is difficult to evaluate the validity of the findings.

Kurz and Stark (1988) also suggested that less than 12% of women who were identified by medical staff as victims of abuse received appropriate referrals. It is not clear, however, exactly what constituted an appropriate referral. In cases of failed suicide attempts, for example, 78% of the self proclaimed battered women, as compared to 96% of nonbattered patients, were referred to mental health counsellors. These findings seem to suggest that counselling was considered by Kurz and Stark (1988) as a desired response from the medical community. However, Gelles and Straus (1988), and Kurz and Stark (1988) have suggested that psychiatric referrals convey a subtle message to the battered woman that she is mentally ill and responsible for her condition (see also Adams, Jackson & Lauby, 1988). Indeed, battered women often present with symptoms consistent with those of psychosis (i.e., confusion, under the influence of drugs, evasive and bizarre behavior; Kurz & Stark, 1988; Rosewater, 1988). Consequently, it is not clear that the medical community

was responding inappropriately to battered women by advising counselling.

Cultural norms and values that ignore or perpetuate violence against women, have also received considerable attention. Okun (1986) and others (e.g., Straus et al., 1980; Martin, 1981) maintain, for example, that the marriage license is, in essence, a license which permits the use of physical violence. Historical accounts of the treatment of wives supports this hypothesis (see, for example, Jones, 1980). For instance, the laws of wife chastisement date back to 753 B.C (Okun, 1986; see next section for further discussion). These laws assured the husband's right to discipline his wife because of his accountability for her behavior. This tradition continued until legal changes were provided to permit wives some autonomy and protection from their husbands.

According to some sociologists, the cultural acceptance of violence as normative behavior is another contributing variable to violence in the home (Straus et al., 1980). For example, researchers assessing television violence and violence portrayed in other media (Cole, 1989; Lull, Mulac & Rosen, 1983; Malmuth & Briere, 1986) have suggested that the media often trivializes the effects of and promotes the use of violence as an effective means of resolving conflict. In addition, the accepted practice of corporal punishment against children is hypothesized by some researchers to promote the concept of violence as being an acceptable tool to use against loved ones (Gelles & Straus, 1988). However, the

relationship between these variables and the incidence of family violence have yet to be definitively confirmed.

According to Okun (1986), perhaps one of the most important societal factors contributing to violence against women is the sexist structure of the family. Men are considered to be the head of the family and to bear the responsibility of exercising control over the family unit. Such control does not preclude the use of violence (Gelles & Straus, 1988) and verbal accounts from batterers provided some support for the position that batterers view their behavior as legitimate. Ptacek (1988) found, for example, that 78% of male batterers indicated that they were violent because their wives had failed to fulfill their roles as 'good wives' (i.e., descriptions included not being a good cook; being sexually unresponsive; failing to display deferential behavior towards her husband). Similarly, Dobash and Dobash (1984) reported that 65% of the arguments that typically ended in violence were a result of sexual jealousy or expectations about domestic roles. Consequently, these researchers have hypothesized that the male's response to behaviors inconsistent with his views, was one of violence. The incidence and severity of battering was also observed to increase in households where the woman was more educated and possessed more earning power than her spouse (Walker, 1984; Pagelow, 1981; Wasileski, et al., 1982; see review in Rogers, 1988). Walker (1984) and others (e.g., Okun, 1986) suggested that a woman's economic superiority likely

came into conflict with the rigid sex role stereotypes held by male batterers.

It is difficult to establish whether or not sex role stereotyping was a causal factor in perpetuating abuse. Such ambiguity results in part, from the lack of empirical investigations assessing the relationship between sex role stereotyping and propensity to commit violence. Dutton (1988), however, compared conflict resolution tactics between abusive partners and non-abusive partners (as identified by the CTS). No differences were observed between non-abusive males and abusive males on attitudes towards women. In addition, differences were not apparent between abusive males and males from a marital conflict control group on measures of verbal assertiveness or projective tests assessing desire for power and control. Consequently, it appears that sex role stereotyping and power/control issues may be less important to predicting male violence than variables yet defined.

Feminist Perspective on Wife Abuse

Psychological and sociological theories of wife assault employ elements of feminist theory but differ on at least one major issue. Feminist researchers unanimously reject gender neutral labels, such as spouse abuse, in favor of terms such as wife or woman abuse (see review in Okun, 1986). They suggest that such gender neutral labels detract from the reality of the situation; namely, that women are abused by men. Such

arguments tend to indicate that proponents of strictly feminist perspectives on wife assault are more politically motivated than oriented towards an empirical assessment of domestic violence (Yllo, 1988). As previously discussed, for example, the hypothesis that violence is exclusively expressed by males, and that women's violence is merely a defensive response to the behavior of men, has yet to be confirmed.

Feminist theorists have also, to some extent, rejected social and psychological explanations of wife assault. For example, both explanations have been criticised for focussing primarily on factors that prevent battered woman from leaving the relationship. Loseke and Cahill (1984) suggested that by asking the question, "Why does she stay?", researchers are implicitly suggesting that women who do stay are deviant (for example, see Ferraro & Johnson, 1983; Walker, 1979; Aguirre, 1985). As previously discussed, proponents of a sociological perspective have suggested that women stay in an abusive situation because social institutions and cultural norms fail to provide adequate support for battered women, while psychological theorists have suggested that the experience of victimization prevents women from leaving a battering relationship. Alternatively, some feminist researchers have suggested that battered women should not be viewed as 'deviants' for either being in, or staying in, an abusive relationship. Indeed, such researchers have emphasized the need for purported experts on wife assault to recognize that many of

the experiences common to battered women are typical of couples experiencing marital instability (Loseke & Cahill, 1984).

Feminists have also criticised social systems theory that emphasizes the mutuality of violence between couples for failing to consider gender differences in social, economic and physical power. In suggesting that equivalent rates of violence exist between sexes, gender related differences are de-emphasised as contributing factors to physical assault on women (Bograd, 1990). Consequently, some feminist investigators have cautioned that acceptance of systems theory would lead to preventative measures and intervention strategies that focused on gender neutral issues (e.g., family dysfunction) as opposed to female oppression (Berliner, 1990). In a like fashion, psychological theories have also been criticised by feminists for directing attention away from males who are violent towards their spouses and focusing instead, on the psychological processes of women (Jackson & Rushton, 1982).

Feminists view the battered women's experiences within the larger context of the treatment of women in a patriarchal society, and battering is viewed as simply one form such treatment may take (e.g., Martin, 1981). The main objective of a patriarchy is to "...maintain societal power, control and privilege in male hands" (Burt, 1983, p. 131). Consequently, violence against women is viewed by feminists as an extension of the coercive style men use to maintain control and power in society.

Burt (1983) suggests that a patriarchy is maintained by at least three ideological beliefs. Each of these beliefs has been examined empirically, although the results appear to be equivocal. The first belief described by Burt is the notion that men are superior to women; a belief that has been the catalyst for a number of investigations. Gilligan (1982), for example, reviewed the masculine bias in the work of several notable researchers, including Piaget, Erickson and Kohlberg. She concluded that the female perspective (e.g., using a sample of males and generalizing to both sexes) has been missing in psychological theories and consequently, that psychology has contributed to the misunderstanding of women and prejudicial attitudes toward women in society (see also Williams, 1974).

The second belief outlined by Burt (1983) is that in a patriarchy specific behaviors fall in the domain of male expression (e.g., physical violence and sexual prowess). This second point is important, according to Burt, because not only does it imply that extreme expressions of these behaviors are tolerated in a patriarchy but that the complementary expression of these behaviors are demanded of females (i.e., passivity, sexual naivete). Furthermore, acceptance of this ideology promotes the belief that behaviors normally ascribed to one sex precludes the expression of these behaviors in the opposite sex. Such cross sex behavior is considered abnormal and consequently is viewed as punishable or at least negative. These considerations have led to the hypothesis that women will be more severely punished for

engaging in criminal behavior that is more consistent with the male, as opposed to the female role (e.g., murder) or for criminal behavior that challenges the sexist structure of a patriarchy (e.g., women killing their husbands).

Support for this hypothesis is, however, equivocal. Browne (1987), for example, cited evidence to suggest that women who killed their partner were charged with more serious crimes than men who killed their wives (i.e., first or second degree murder as compared to manslaughter) and received longer prison terms even when convicted of the same crime (see also Kimbrough & Lauder, 1987). Other evidence used to support the notion that legal sanctions were applied differently across gender were obtained by Daniel and Holcomb (1985). These investigators observed that male domestic homicide offenders were charged less frequently with either capital or first degree murder (i.e., 34%) compared to men charged with non-domestic homicide offences (i.e., 80%). These findings were taken to suggest that domestic homicide is considered less serious than homicide committed by strangers. However, as reports of circumstances surrounding domestic cases differ from non-domestic homicide, it is difficult to interpret this finding.

Contrary to the hypothesis that women are more severely punished than men, Wolfgang (1958) reported that the majority of female domestic homicide offenders in his study were charged with less serious crimes than males who killed their spouse (60% of males compared to 15% of females were charged with first or

second degree murder) and 92% of males compared to 62% of females were found guilty of the charges (see ensuing sections for further discussion of the laying of charges). In a replication of Wolfgang's study, Goetting (1989) reported that women were less likely than men to be found guilty of domestic homicide or to receive prison sentences even if they were found guilty. Kalichman (1988) found no differences in sentences for either men or women charged with domestic homicide and men charged with non-domestic homicide. In Canada, 80% of men received a sentence of more than 5 years for homicide compared to 61% of women, suggesting that women obtained more lenient sentences (Johnson, 1986). However, as data are presented in aggregate form for all homicide types, it is not possible to determine if sentences differed specifically for cases involving spousal homicide. Johnson (1986) also observed that incarcerated, female, domestic homicide offenders were more likely to be granted full parole than men. Taken together, these findings suggest that women are not more severely punished for a behavior traditionally considered to be in the male domain (i.e., homicide).

According to Burt (1983) the final series of beliefs associated with a patriarchal society "...deny, excuse, exonerate or justify extreme forms of male behavior which epitomize their power vis-a-vis women, such as rape, wife-beating or incest.." (p. 133). The notion that victims are deserving of their treatment or actually incite abuse has received considerable attention (see review in Caplan, 1985). For example, anecdotal reports provided

in defense of men who assault their wives suggest that women incite abuse primarily through verbal haranguing of male partners (Habib, January 22, 1991).

Empirical evidence in support of the notion that violence directed at women by men is excused or justified is ambiguous. For example, Stark and McEvoy (1970) reported that 25% of American couples believed it was acceptable to hit a wife under 'appropriate' circumstances. However, examination of the study revealed that the scale of measurement was not presented nor was the definition of the term 'appropriate' provided. Consequently, interpretation of these results remains problematic. The findings from a state wide survey on opinions about domestic violence were even more ambiguous (Edwards, 1987). Approximately 86% of the individuals surveyed believed that if injuries resulted from domestic violence, a criminal offence had been committed. However, 62% of respondents favored counselling as opposed to arrest as a consequence of wife assault. Thus, although a criminal offence was believed to have occurred, punishment was not considered an appropriate response.

Historical Perspective of Wife Assault

Historical reviews of the judicial response to wife battering have been used to support the feminist view that violence against women in the form of wife assault is viewed as either acceptable or justifiable. For example, until approximately 1825 in the United States, chastisement for non-compliance was a right executed at

the husband's discretion even if such action resulted in homicide (see review in Jones, 1980; Martin, 1981). Furthermore, feminist researchers have noted that even when laws of protection for women were introduced, the actual protection women received was minimal. For example, the infamous 'rule of thumb' law allowed a man to beat his wife with a stick provided it was not thicker than his thumb (see Jones, 1980).

Although by the late 1800's most American states prohibited men from physically beating their wife (Gillespie, 1989; Okun, 1986) such legislation did not eliminate violence against women. Indeed, enforcement of such laws was virtually non-existent until the women's movement of the early 1970's (Martin, 1981; Jones, 1980; Ewing, 1987; Okun, 1986). For example, in Canada, it was only following the introduction of legislation in 1983 that a woman was allowed to formally charge her husband with rape. In addition, the Solicitor General of Canada formally provided police with a mandate to halt violence against women only in 1984. In 1985, section 15 of the Canadian Charter of Rights and Freedoms formally entrenched rights aimed specifically at protecting women in the Canadian constitution (MacLeod, 1987).

Changes in legislation have not ensured that North American women in a cohabiting relationship are protected from batterers. In fact, a number of investigators have described the ineffectiveness of police intervention in domestic disputes and their reluctance to press assault charges against a man who has

threatened or has actually beaten his wife (Walker, 1984, Martin, 1981; Okun, 1986). For example, even if a woman did lay charges, fewer than 3% of such cases were prosecuted to the full extent of the law (Okun, 1986). Furthermore, even if a man was charged and found guilty of greivous assault against a woman, the punishment for the offence was often disproportionate to the crime (Bagnell, July 15, 1989). Roberts (1987), for example, noted that sentences ranged from 1 to 29 days in jail for men found guilty of assaulting their spouse. Feminist groups have argued that such legal inaction perpetuates the belief that wife assault is not considered a serious crime by the judicial system, which seems to prevent or at least discourage women from seeking legal intervention (Martin, 1981).

To counter charges from feminist groups that the complaints of battered women against men are not taken seriously, the police and the crown prosecutor's office have argued that women tend to drop charges after these have been laid, refuse to testify against a perpetrator or return to the batterer even when legal proceeding have been initiated (McGillivray, 1987). Some empirical support for such arguments have been obtained. McLeod (1983), for example, found that after contacting the police during a domestic dispute altercation, 72% of the females refused to sign a formal complaint. As a consequence of witness non-cooperation, law enforcement personnel are often reluctant to pursue cases that will, in their estimation, prove futile (Worden & Pollitz, 1984). New legislation has been introduced in some provinces, however, that prevents a charge from being dropped once it has been laid

(i.e., the 'no drop policy'; McGillivray, 1987; Bagnell, July 15, 1989).

Law enforcement personnel are required to lay an assault charge, if they have sufficient evidence to suggest that an assault has occurred, regardless of the perpetrator - victim relationship and whether or not an assault was actually observed (Brozoski, 1990). Such measures have been designed to reflect the judicial system's intolerance for male violence against female partners. However, the results from a study conducted in the United States following implementation of a similar policy suggested that arrests rates did not increase even though arrest policies were altered (Elk & Johnson, 1989). Furthermore, only 44% of the perpetrators were arrested despite injuries being incurred by the victim and arrests were made in only 45% of the cases where a weapon was used.

It is not clear why policy changes have failed to increase the number of arrests, although some researchers have suggested that more education programs are necessary for battered women service providers (Davis, 1984). For example, Worden and Pollitz (1984) suggested that policeman who do not personally view wife assault as a crime are less likely to make an arrest regardless of policy changes or situational variables (e.g., injuries, use of a weapon). Policy changes have not been without impact, however. Jolin (1983) suggested that the downward trend in domestic homicides in Oregon were a direct result of 'a must arrest policy'.

Domestic homicides were observed to decrease by 10% while nondomestic homicides increased by 41%.

Walker (1984) and others (Martin, 1981; Okun, 1986; Dutton & Fainter, 1981) also suggested that misconceptions about battered women may interfere with intervention strategies. As previously discussed, there are psychological and social variables that make it difficult for a woman to leave a battering relationship. Walker (1984) suggested that the belief that women can leave their abuser at will, for example, is prevalent among social service personnel and law enforcement officers. This belief, Walker (1984) argues, often prevents the woman from receiving relevant legal and social support.

Walker (1984) and others (Wasilieski et al., 1982; Roberts, 1987) provided evidence to suggest that abusive incidents do not necessarily cease when the woman leaves the batterer. For example, case study reports of battering incidents indicate that women have been assaulted when men are exercising child visitation rights, at the woman's workplace or in a new residence (see also Martin, 1981). In addition, it has been estimated that 45% of domestic homicides perpetrated against females occur when they are no longer living with their partner (Gillespie, 1989). Consequently, leaving the batterer does not appear to be an adequate solution for many women. In addition, it has been argued that socialization processes actually encourage women to remain with a male partner regardless of the abuse inflicted (see Caplan, 1985; Gilligan, 1982; Martin, 1981). Accordingly, feminist

theorists argue that more educational programs are necessary for the "helpers" of battered women in order that these victims receive fair and relevant treatment (Martin, 1981). However, it is not exactly clear what fair and relevant treatment consists of.

The previous discussion focused on theoretical explanations of domestic violence. Walker (1979; 1984) argued that principles of learning theory could explain why women stayed in an abusive relationship. Sociologists, including Straus et al. (1980), suggested that society's formal organizations (i.e., law enforcement agencies) maintain and promote violence by failing to respond effectively to domestic disputes. Finally, feminists argued that violence against women is an acceptable male strategy to maintain power and control in general, and over females, in particular (e.g., Burt, 1983). Empirical evidence generated in support of theories of domestic violence has been equivocal due, in part, to methodological difficulties. The following section details how the legal system has been used to defend battered women who kill their partners.

Defenses Open to Battered Women Who Kill Their Partners

Culpable homicide is murder where the person who causes the death of a human being means to cause his death or means to cause him bodily harm that he knows is likely to cause his death [Section 212(a), Criminal Code of Canada].

Historically, women who killed their spouses were viewed as the most heinous of criminals and regardless of the circumstances surrounding the case, punishment was severe (e. g., R vs. J. Swett,

Jones, 1980; p. 104). However, recent studies investigating the motives of women who kill cohabitating partners suggested that between 40% and 85% of homicides perpetrated by women were purported to be committed in self defense (Wolfgang, 1958; Saunders, 1988; Walker, 1984; Gillespie, 1989). The details of these cases often revealed woman who were brutally victimized by a male partner for a number of years prior to the fatal incident (Walker, 1984; Jones, 1980; Ewing, 1987). Feminist groups have argued that a history of battering is a causal antecedent to homicide and that such a history constitutes extenuating circumstance (Walker, 1984; Martin, 1981). Specifically, feminists argued that these woman killed in self defense (Saunders, 1988; Gillespie, 1989).

Approximately 90% of women who commit domestic homicide are initially charged with first or second degree murder (Mann, 1989). Murder is considered first or second degree when it is planned and deliberate [Section 214 (2), Criminal Code of Canada]. The Criminal Code of Canada also defines second degree murder as murder that is not considered first degree murder. First degree murder is usually the charge if the deceased was a law enforcement agent or if the defendant was in the act of committing or had committed (a) sexual assault, (b) sexual assault with a weapon, (c) threats to a third party or bodily harm, (d) aggravated sexual assault, (e) kidnapping or hijacking an aircraft [Section 214(7); 215 (5) a, b, c, d, e; Criminal Code of Canada]. The majority of women typically plead guilty to a lesser charge;

usually manslaughter (Walker, 1984; Gillespie, 1989). Manslaughter is considered distinct from first or second degree murder if the person committed murder in the "heat of passion" caused by sudden provocation [Section 215(!), Criminal Code of Canada].

Researchers reviewing cases of spousal homicide have suggested that there are a number of reasons for why women choose to plead guilty to a lesser offence (Ewing, 1987; Gillespie, 1989). First, a lesser charge, offered in return for a guilty plea, carries a lighter sentence than a guilty verdict following a first or second degree murder charge. Female offenders with children, for example, find this strategy appealing since they may not want to risk a lengthy jail term. Second, the law, as currently applied to battered women who kill their spouse, is problematic for defense lawyers seeking an acquittal because the majority of cases end in a guilty verdict (see discussion below). Finally, Gillespie (1989), Jones (1980) and others (e.g., Schneider, Joran & Arguedas, 1981) suggested that women in domestic homicide cases are often expected to plead guilty (i.e., it is never justifiable for a woman to kill her spouse). These investigators argued that both the defendant and the legal personnel women encounter may support the notion that the woman is guilty regardless of the circumstances surrounding the case. Consequently, the woman comes to believe that entering a not guilty plea would seem irrational (e.g., MacDonald & Gould, 1987).

Self Defense Plea

Despite the difficulties encountered by women entering a self defense plea, many female domestic homicide offenders in the 1980's sought exoneration through use of this plea. In order for a plea of self defense to be accepted, three criteria must be met. The first criterion is that the evidence surrounding the case must suggest the plea of self defense is reasonable; second, the accused must have had a reasonable belief that he/she was in a position of imminent danger of death or serious bodily harm at the time of the incident and third, the amount of force used by the accused to repel the victim must have been necessary to prevent the occurrence of such harm [Section 34, Criminal Code of Canada].

Each of these criteria has proved to be an obstacle for women pleading self defense following a domestic homicide in both Canadian and American courts. The reasonable force requirement, for example, was particularly problematic and many defense lawyers argued it was biased; an argument that courts of law eventually recognized. In the case of *State vs. Wanrow* (see Gillespie, 1989), an American court addressed the question of reasonable force. The judge drew attention to the fact that the instructions of reasonable force "...leaves the jury with the impression that the objective standard to be applied is that applicable to an altercation between two men. The impression created - that a 5'4" woman with a cast on one leg and using a crutch must, under law, somehow repel a 6'2" intoxicated man without employing weapons.....violates the respondent's right to

equal protection under the law" (Jones, 1980; p. 286). This case directed attention to a salient feature relevant to battered women who kill, namely, the amount of force a woman might reasonably deem necessary in order to protect herself.

It should be noted that considerable debate has arisen in Canadian (and American) courts regarding the applicability of an objective standard of what is reasonable (Wilkes-Kaas, 1982). In law the objective standard applies the behavior of a "reasonable man" to the actions of the defendant. If a court invokes the objective standard, juries are required to view the actions of the defendant from the point of view of a hypothetical "reasonable man". However, if a subjective standard is used, a jury is instructed to evaluate the defendant's actions in terms of how the defendant viewed the situation (i.e., a defendant only needs to demonstrate that she had an honest belief that death was imminent). The courts, however, have not been consistent in applying either objective or subjective standards of behavior. In Canada, the defendant may have to prove objectively that there was a reasonable opportunity for him/her to be killed prior to commission of a homicide and subjectively that he/she honestly believed such an act would occur (see discussion in McEachern; 1985).

An unknown number of battered women in the United States and Canada have used the self defense plea as justification for homicide. To date, there have been no definitive studies on the exact number of cases or outcomes of women who enter a not

guilty plea (Goetting, 1988). However, Ewing (1987) reviewed 100 cases of battered women who killed their cohabitant and entered a plea of not guilty. Of these 100 cases, 83 women used the self defense plea but only 27 were successful in obtaining an acquittal. It should be noted that a conviction is often accompanied by a lengthy prison term. In Canada, for example, a guilty verdict in a second degree homicide case carries a mandatory life sentence with the possibility of parole after 10 years.

Ewing (1987) cited three reasons for the ineffectiveness of the self defense plea in domestic homicide cases. The first consideration is that juries often find it difficult to accept the defendant's position that she reasonably believed she was in imminent danger of death. These concerns are particularly appropriate to women who kill (a) while the victim is incapacitated (e.g., asleep), (b) some time following a physical confrontation or (c) by hiring someone to kill their spouse. Even if the fatal blow is administered during an altercation, the jury sometimes finds it equally hard to accept that this altercation was any different from other incidents of domestic violence and question the need for deadly retaliation. A further obstacle to a successful self defense plea is the question of the amount of force used by women. Although the *Wanrow* decision helped to alter the legal concept of reasonable force, most juries are still likely to view the *modus operandus* in many cases to be excessive (e.g., firing 12 shots into a sleeping man; Ewing, 1987).

A final obstacle to the self defense plea is the 'retreat' requirement necessary in most States. The retreat requirement means that the defendant must demonstrate that a retreat to a position of safety was not possible prior to taking the life of their opponent (Gillespie, 1989). Either an objective or a subjective test on the duty to retreat requirement can be invoked. In effect, would a reasonable person have known they could retreat or did the defendant honestly believe that retreat was not possible (Wilkes-Kaas, 1982). The only exception to this rule is when the altercation occurs in the offender's home (i.e., the castle doctrine). Since battered women often share their place of residence with the attacker, the situation regarding the legal demands of the 'duty to retreat' requirement are complicated (Gillespie, 1989). Such a doctrine does not exist in Canada. In Canada, the ability to retreat is but one factor juries need to consider in deciding whether deadly force was necessary and reasonable (Brodsky, 1987). Thus, although a battered woman may not have a legal duty to retreat in Canada, a defense lawyer might have difficulty suggesting to a jury that she did not have an opportunity to retreat.

Some researchers have concluded that the use of a self defense plea is likely to be unsuccessful for battered women because the self defense laws are sex biased (Schneider et al., 1981; Sagawa, 1987; Edwards, 1986). According to this view, these laws were developed primarily to protect men attacked by a stranger or to promote the rules of a fair fight (Martin, 1981;

Gillespie, 1989; Walker, 1984). Gillespie (1989), for example, suggested that a self defense plea is only considered acceptable if the person conformed to the expected behavior of a man in a dangerous situation. Expected behaviors include meeting the adversary face to face, using a weapon only if a weapon was being used against them and not indulging in behavior that caught the opponent off guard. The majority of cases involving battered women who kill their spouse violate at least one of these expectations and increase the likelihood of a guilty verdict.

Insanity Defense

An alternative defense strategy used almost exclusively by battered women who killed their spouse prior to the 1980's (Schneider et al. 1981; Thar, 1982; McKinnie, 1981), implied an impaired mental state. In Canada, for example, either an insanity or an automatism defense are used. A plea of insanity implies that the woman was not responsible for her actions and several legal tests are used to determine whether the defendant is legally insane (i.e., the M'Naghten Rule, Durham Test, American Law Model Penal Code; Fingarette, 1972; Dahl, 1985). These tests incorporate the following concepts (a) the presence of mental disease, (b) presence of defect of reasoning, (c) lack of knowledge of the wrongfulness of the act and (d) an incapacity to refrain from commission of the act (Fingarette, 1972; Apadaca & Fink, 1989).

The use of the insanity defense has been more successful than self defense in winning acquittals for female domestic

homicide offenders (Ewing, 1987; Gillespie, 1989). Acquittals, however, are beset with complications and greeted with mixed feelings by both lawyers and defendants. Most American states, and all Canadian jurisdictions, (until very recently; April, 1991) required that a defendant found not guilty by reason of insanity be committed to a mental institution for an indefinite period of time until such time as a review board deems the individual well (Black, Nolan & Connolly, 1979; Schneider et al., 1981). Ewing (1987) and others (Schneider et al., 1981) also suggested that insanity is difficult to prove because the woman often does not conform to a juror's expectations of insanity (i.e., they appear too rational). In addition, the character of the deceased cannot be used as a justification for the reasonableness of the actions of the defendant (Schneider, 1989). Thus, testimony regarding the past violence of the deceased is often deemed inadmissible in cases where the defense is one of insanity. Consequently, lawyers are likely to use the insanity defense only as a last resort.

The automatism defense is also an impaired mental capacity argument but differs from an insanity defense in that the condition is considered temporary. A defendant, suffering from automatism, is excused from the crime if, at the time the act was committed, the individual was incapable of forming an intent or realizing the consequences of their actions (Black et al., 1979). In essence, the act is considered involuntary and the defendant is considered to have acted without will or reasoned intention (Hermann, 1983; Apadaca & Fink, 1989).

The defense of automatism, like the insanity defense, has met with limited success. In the much publicized case of Francis Hughes, for example, James Hughes, her husband, was set afire while sleeping in his bed. During the trial a long history of wife battering was documented and F. Hughes was acquitted of murder on the grounds of temporary insanity (see Apadaca & Fink, 1981). The defense argued that a battered woman's judgement was impaired due to the severe stress of the abusive relationship. The impaired judgement, it was further argued, prevented the woman from perceiving her options accurately. She was severely stressed and was consequently unable to conform her behavior to the requirements of the law. In essence, the impaired mental state, brought on by the battering, caused her to kill the batterer.

Some authors have argued that the automatism defense is likely to fail because women using this plea are usually not in an automated state at the time of the trial. Consequently, the defendant's credibility is questioned (Schneider et al., 1981). Schneider (1989) also pointed out that any psychiatric defense is often viewed with suspicion by jurors and thus should be used only after other alternatives have been fully explored and discarded. Finally, the consensus among defense lawyers and researchers is that women who kill their spouse do so in order to protect themselves. They knew what they were doing, that it was legally wrong and they were able to control their actions at the time of the act (Ewing, 1987; Schneider, 1989; Gillespie, 1989). Obviously, these reasons preclude the use of an automatism plea.

The use of diminished capacity pleas by battered women are also objected to by feminist theorists. Walker (1984), Sagawa (1987), Gillespie (1989) and Schneider, (1989), for example, object to any plea based on diminished capacity because offering this plea perpetuate beliefs that women are more emotional, prone to hysteria and tend to panic in comparison to men (Ewing, 1987; Gillespie, 1989). Consequently, these researchers suggest that rather than attempting to convince a jury that a battered woman's actions were caused by mental illness, lawyers should be attempting to convince judges and jurors that a battered women's actions, under certain circumstances, were reasonable. To this end, the testimony of an expert witness has been employed.

Expert Witness Testimony

In order for testimony of an expert witness to be admissible, three criteria must be met (Baumann, 1989; Gillespie, 1989; Ewing, 1987; Brodsky, 1987). First, the subject matter addressed by the expert witness must be beyond the knowledge of the juror and must aid the juror in understanding the pertinent issues of the case. Second, the expert witness must demonstrate their expertise either through educational background or practice. Finally, in order for the expert witness to offer an opinion, the science of which the expert is speaking must be considered sufficiently developed (i.e., opinions must be empirically accepted).

Although expert witness testimony pertaining to battered women is more readily admitted in law courts than was previously the case, there has been considerable legal debate as to the admissability of such testimony (see review in Schneider, 1989; Ewing, 1987; Dommer-Walter, 1982; Thar, 1982; Leary, 1985; Brown, 1985). Some of the arguments against the admission of expert testimony in cases where battered woman kill their spouses include arguments that (a) jurors are able to understand the position of the battered woman without expert testimony, (b) the battered woman's syndrome is not sufficiently accepted or understood within the scientific community (see Faigman, 1986), (c) expert witness testimony interferes with the primary purpose of the jury, which is to decide the guilt or innocence of the defendant and (d) the probative value of such testimony is outweighed by its prejudicial impact on a jury. The last concern is raised in situations where expert witness testimony is viewed as confusing and irrelevant to the question of immediate danger in self defense cases. Some judges have stated that a previous history of battering and testimony on the battered woman syndrome are irrelevant to whether or not the facts of the case support the contention of self defense (Ewing, 1987).

If expert witness testimony is admitted, the expert often addresses what she defines as myths and misconceptions about battered women (see reviews in Walker, 1984; Ewing, 1987; Galliano & Nichols, 1988; Schneider, 1989). There has been some empirical support for the notion that jurors do indeed adhere to

certain beliefs that many experts consider to be inaccurate. Ewing and Aubrey (1987), for example, found that nearly 42% of subjects who read a brief scenario depicting a battering relationship believed that the woman was to blame for the violence [i.e., ..."(the woman) is probably somewhat masochistic..." p. 263]. In addition, nearly 64% of the subjects interviewed believed that the victim could simply leave the relationship to prevent battering. The endorsement of such beliefs regarding battered women was supported by a subsequent investigation. Greene, Raitz and Lindblad (1989) found that although potential jurors understood the repetitive nature of violent episodes and the sense of helplessness a victim might feel in preventing abuse, they often held opinions that were at variance with those of the expert about the options available to a battered woman in coping with the abuse (e.g., that she might believe that she has to use deadly force to stay alive). Both groups of researchers concluded that the use of an expert witness in battering cases ending in homicide would be beneficial to the defendant (see also Kromsky & Cutler, 1989).

The testimony of the expert witness is usually comprised of a description of the battered woman's syndrome with the intention of helping to justify an incident that might, under other circumstances, appear unjustifiable (Wilkes-Kaas, 1982; McKinnie, 1981; Leary, 1985; Brodsky, 1987). It should be noted that the battered woman's syndrome is not in and of itself a defense (Thyfault, 1984). Instead, the syndrome is used to help convince a

jury that the woman had a reasonable belief that her life was in imminent danger and thus that she acted in self defense.

Expert witnesses often cite Walker's (1984) three step cycle of violence as an integral part of the battered women's syndrome. The expert witness can also describe for the jury the legitimate fear these women had of retaliation from the batterer if they left him, the distortion of the woman's perceptions at the time of the murder as a result of battering, as well as the isolation and lack of social, emotional, legal and economic support for battered women in general. The expert witness may also address the reasons a woman did not leave the batterer. In summary, the primary purpose of the expert witness is to convince the jury that the defendant acted in a reasonable manner (Baumann, 1983; Schneider, 1989).

It should be noted that as of 1987, Canadian Courts had not heard a case employing the testimony of an expert witness on the battered woman's syndrome (Brodsky, 1987). Consequently, the admissibility of such testimony has yet to become an issue in Canada. However, a recent decision from the Supreme Court of Canada ruled that evidence pertaining to aspects of the battered woman's syndrome (i.e., learned helplessness, cycle theory of violence) could, and should, be allowed (MacQueen, March 3, 1991).

There are several caveats involved in the use of an expert witness in these types of homicides cases. As previously discussed, the expert witness may not be allowed to testify

(Ewing, 1987; Walker, 1984). Even if they are admitted, however, the use of an expert witness does not ensure an acquittal. Ewing (1987) cites 26 cases where an expert witness testified on behalf of a defendant, yet only 9 of the defendants were cleared of homicide charges. The reasons for this are unclear, although Ewing (1987) and others (e.g., Schneider, 1989) have suggested that inconsistencies in the expert witness's testimony may confuse a jury. For example, battered women are often portrayed as helpless victims, yet they are on trial for murder. This is not consistent with the concept of a helpless individual (Faigman, 1986). Even more inconsistent is the fact that battered women are first described by the expert witness as having distorted perceptions as a result of being abused (i.e., Walker, 1984) and then later described as being reasonable.

Second, Ewing (1987) pointed out that a person who commits homicide under emotional duress may still be found guilty of a lesser charge. Thus expert witness testimony may serve to simply reduce the charge from first degree murder to manslaughter. In addition, if testimony regarding the battered woman syndrome is presented, the defendant's behavior may have deviated in various ways from the typical battered woman described by the expert. Thus juries may reject the whole defense (Thar, 1982). Finally, Ewing cited the fear that juries may have of acknowledging that the battered women's syndrome may give battered women a "right to kill" (c.f., Barron, May 13, 1991). This

fear has been echoed in several newspaper editorials and magazines (for discussion see Jones, 1980; Gillespie, 1989).

Experiment 1

Variables that effect the outcome of trials in which battered women use a self defense plea as justification for homicide are relatively unknown. Although it might be argued that questions pertaining to the these cases should be largely resolved through the legal process, certain issues can be addressed by empirical study. In particular, public opinion regarding the tenability of such pleas can be investigated. As such, the purpose of Experiment 1 was to assess the conditions under which a jury would find a battered women not guilty of second degree murder.

Specifically, Experiment 1 addressed the question of whether or not the testimony of an expert witness aids in the defense of a battered women. As well, the beliefs of jurors concerning wife abuse were assessed. In Experiment 1, the following issues were evaluated; (a) whether or not the testimony of an expert witness increased the number of acquittals, (b) whether or not jurors found a defendant not guilty given an insanity defense as opposed to a plea of self defense and (c) whether or not belief in misconceptions regarding battered women increased the likelihood of a conviction.

Method

Subjects

A total of 237 first year psychology students agreed to participate for course credit in a mock jury study. Subjects ranged

in age from 17 to 70 years. A total of 103 females (mean age = $20.4 \pm .6$ years) and 134 males (mean age = $19.8 \pm .2$ years) participated. Subjects were randomly selected from approximately 850 first year students who completed the Acceptance of Wife Abuse Myths scale (AWAM; Walker, 1979) during the mass testing session at Carleton University. During the mass testing session, first year students were requested to complete various questionnaires which were then used to select participants in specific psychology research projects. Students received course credit for participation in mass testing.

Pre-Measure

The AWAM scale is a 25 item measure designed to assess the degree to which individuals believe notions about wife abuse that some experts have deemed erroneous (Appendix A). Respondants were requested to indicate on a 7 point scale whether they strongly agreed or disagreed with statements. "Myth" statements addressed the following three areas: beliefs about battered woman (e.g., battered woman are masochistic), beliefs about batterers (e.g., batterers are violent in all their relationships) and beliefs about battering (e.g., drinking causes battering behavior).

Testimony

Four videotapes of comparable length (i.e., approximately 50 minutes) were made depicting the trial of a battered woman who killed her husband. The same cast of actors from an amateur theatre group on campus was used in each videotape.

The script (Appendix E) was based on a composite of legal cases that described women charged with the second degree murder of their partner (Ewing, 1987; Gillespie, 1989; Walker, 1984; Dobash & Doabsh, 1979). The circumstances of the defendant paralleled those surrounding a domestic homicide (Mann, 1989). The trial proceedings were based on actual court proceedings and included; opening statements from the judge, the prosecutor, and then the defense; witnesses for the prosecution with each witness cross examined, followed by witnesses for the defense and cross examination. The simulated trial concluded with closing statements from the defense, the prosecutor and the judge's charge.

The three witnesses for the prosecution were, (a) the arresting officer, (b) the coronor who performed the autopsy and (c) a character witness for the deceased. The three witnesses for the defense were, (a) a domestic dispute officer that had previously been summoned to the couple's home during an argument, (b) a medical doctor who had treated the defendant's injuries prior to the homicide and had examined the defendant immediately following the homicide and (c) the battered woman.

The battered woman's testimony recounted her relationship with the deceased and examples were presented indicating the types of violent behavior she was subjected to (i.e., beating, kicking, rape) and her attempts to cope with the abuse (i.e., calling the police, attempting to leave, performing her wifely duties better). In addition, she testified that her husband had kicked her

and caused her to miscarry and kept her isolated from both family and friends. She also discussed the events of the weekend prior to the death of her husband and her feelings of helplessness and terror. The defendant also discussed how her husband threatened to kill her on the night of his death and she testified that she believed him. The defendant then explained how, on the night of the murder, she took a loaded gun, released the safety catch and carried it into the bedroom where she shot her husband 4 times. The testimony was presented with the understanding that she did not really remember much of what happened immediately prior to the homicide. The cross examination by the prosecution focused on her feelings of anger towards her husband and the unreasonableness of her belief that she was in danger of death or serious bodily harm from her husband at the time of the murder.

In two of the four videotapes, the testimony of an expert witness (i.e., a psychiatrist) was recorded. This testimony consisted of an examination of some of the misconceptions commonly held about battering, batterers and battered women, a discussion of the cycle theory of violence and finally the opinion of the expert witness on the tenability of the defendant's plea. All actors were male except the battered woman, the expert witness and the medical doctor.

Videotapes

In the first videotape, the battered woman pled not guilty to the charge of second degree murder by reason of automatism. The

opening statement of the judge, prosecutor and defense reflected this plea. The witnesses each testified and were cross examined. The closing statements from the prosecutor, defense and the judge were also consistent with the plea of automatism.

The second videotape was identical to the first videotape except that an expert witness was called on behalf of the battered woman. The expert testified that because the battered woman was subjected to years of abuse, she suffered from the battered woman syndrome. The expert also testified that on the night of the murder the battered woman could no longer cope with the stress of such a relationship and consequently slipped into a dissociated state. Furthermore, the expert witness argued that because she was in a dissociated state at the time of the murder, she could not form an intent or understand the consequences of her actions. The cross examination was directed at refuting the whole concept of the battered woman's syndrome and the evidence that the expert witness used to infer the woman's state of mind on the night of the incident. The prosecution maintained that the defendant killed her husband out of anger and concocted the story of dissociation in order to escape punishment.

The third videotape was identical to the first tape except, the woman used a self defense plea to justify her actions. The judge's opening and closing statement, as well as the statements from the prosecution and the defense were a reflection of this plea. All testimony presented by the witnesses was identical to that expressed on the first videotape.

Finally, the fourth videotape was identical to the third tape except that an expert witness was called to explain the battered woman syndrome and dispell misconceptions regarding battered women, batterers and battering. It was identical to testimony given in the second videotape except that the expert suggested that because of the years of abuse suffered by the battered woman, the defendant had a reasonable belief that her husband would kill her. She accordingly followed through with what was necessary, under the circumstances, to protect herself from serious bodily harm or death. The cross examination of the expert witness by the prosecution focused on the fact that the majority of battered women do not kill their spouse and thus the defendant could have persued legal alternatives or simply left the batterer in order to prevent harm from occurring to herself. The prosecution suggested that the defendant's belief that she was in imminent danger of death or serious bodily harm was not reasonable.

Procedure

Subjects were randomly assigned to one of four conditions; (a) automatism/no expert (b) automatism/expert (c) self defense/no expert and (d) self defense/expert. Juries were comprised of between 5 to 8 subjects (mean number of jurors per jury = 6; 4 males, 2 females) in order to form a total of 40 juries (n=10 juries per condition).

Once jurors signed an informed consent form, they watched one of the four videtapes. The experimenter remained present

throughout the viewing proceedings. The videotape was stopped at three intervals; after the opening statements of the judge, prosecutor and the defense; after all the witnesses have been heard (excluding the expert witness where applicable); and after the closing statements of the defense, prosecutor and judge. During these intervals subjects completed a private belief in guilt rating scale (Appendix A). Subjects indicated on an 11 point scale whether they believed the defendant was not guilty (-5) or guilty (+5). They also completed this scale at the conclusion of the Experiment.

Once the videotapes were over, subjects completed a credibility checklist for each of the trial participants (Appendix A). Subjects were asked to indicate on a 5 point scale whether they found the actor to be credible (5), or not credible (1). The experimenter then selected a foreperson and told them of their duties. The duties consisted of reading a prepared statement (Appendix A) that informed jury members as to how the tally procedure was to be conducted. In addition, the foreperson was informed to direct any questions during the deliberations to the experimenter. At this point the experimenter reminded the jury that they were to deliberate to a unanimous verdict as to the guilt or the innocence of the defendant. They were told that they must take a minimum of two tallies. The experimenter then left the room.

Jurors were allowed to deliberate for up to a maximum of 1 hour and 30 minutes. If a unanimous decision was not reached at

this time, the jury was declared hung. Subjects were requested to complete the fourth private belief in guilt rating at this time. In addition, a second AWAM scale was completed. Jurors were then fully debriefed. The debriefing procedures included a discussion of the purpose of the investigation and beliefs that were addressed in the AWAM questionnaire. In addition, all subjects were given a list of contact numbers consisting of services available to individuals in need of counselling regarding general matters (e.g., legal help, marital counselling, rape crisis hotlines) and services specifically designed for battered woman (e.g., Interval House; Appendix A).

Results

The final outcomes of deliberation proceedings were recorded for each jury and scored as follows; a score of 1 identified juries that found the defendant not guilty, a score of 2 indicated a hung jury in which a unanimous decision could not be reached and a score of 3 indicated a guilty verdict. A frequency distribution of final jury verdicts is presented by Defense (self defense vs. automatism) and Expert (expert witness testimony vs. no expert witness testimony) in Table 1. Overall, juries were as likely to find the defendant guilty (35%) as not guilty (35%), while 30% of juries remained undecided.

Insert Table 1 about here

Table 1: Frequency Count for Jury Verdicts
 Frequency count of guilty, not guilty and hung verdicts presented as a function of Expert Witness Testimony and Defense.

	Expert Witness		No Expert Witness		Total %
	Self Defense	Automatism	Self Defense	Automatism	
Defense					
Guilty	4	2	5	3	14 (35%)
Not Guilty	3	5	3	4	15 (38%)
Hung	3	3	2	3	11 (27%)
Total	10	10	10	10	40

Jury Composition and Jury Verdict

The ratio of males to females in a given jury was statistically controlled using an analysis of covariance (ANCOVA) procedure prior to assessing the effects of Defense and Expert on verdict outcome. The results of the ANCOVA on final jury verdicts revealed that the covariate was not significant, $F(1,35) = .098$, $p > .05$. Therefore, the effect of jury composition on jury verdicts was not included in subsequent analyses.

Jury Verdicts

Analysis of final jury Verdicts was assessed using a 2 x 2 between subjects analysis of variance (ANOVA) with Defense and Expert testimony as the independent variables. No significant main effect or interaction was observed across any of the conditions at the jury level tested at the .05 level. The results of the analysis remained the same whether or not 'hung' juries were pooled with juries voting not guilty. Means involved in this analysis are given in Appendix C. Subsequent analyses focused on individual juror responses.

Juror Verdicts

Individual mock juror verdicts were tallied prior to and following deliberation proceedings. A 'not guilty' verdict received a score of 1 and a 'guilty' verdict received a score of 2. Verdicts were analysed using a 2 x 2 x 2 x 2 mixed ANOVA with Defense, Expert and Gender as the between variables and pre and post deliberation Verdicts as the within subject variable. Juries were nested according to condition (Kenny & Judd, 1986; Winer, 1962).

The results indicated a significant main effect for Defense, $F(1, 157) = 17.44$, $p < .001$; and Gender, $F(1, 157) = 15.12$, $p < .001$. Examination of the means associated with the main effect for Defense revealed that subjects more frequently found the defendant guilty when a plea of self defense was entered (mean = $1.57 \pm .4$) as opposed to a plea of automatism (mean = $1.39 \pm .4$; adjusted $h^2 = .08$). The main effect for Gender was qualified by an interaction and is discussed below.

A significant interaction was identified between Gender and pre-post deliberation Verdicts, $F(1, 157) = 14.5$; $p < .01$; and between Expert, Gender and pre - post juror deliberation Verdicts, $F(1, 157) = 4.36$; $p < .05$. The latter interaction was broken down into two way interactions between Gender and pre-post deliberation Verdict as a function of expert testimony, $F(2, 157) = 7.67$; $p < .01$; or no expert testimony, $F(2, 157) = .46$. $p > .05$. Even though the latter two way interaction was not significant, a significant simple main effect was observed which will be described below.

Simple effects performed on the Gender by Verdict interaction in the Expert condition revealed that females more frequently found the defendant guilty after deliberation than before deliberation, $F(1, 157) = 9.06$; $p < .002$. However, males more frequently changed a pre-deliberation guilty verdict to a not guilty verdict following deliberations, $F(1, 157) = 6.28$; $p < .02$. Simple effects performed on Gender at pre deliberation in the Expert condition suggested that females were more likely than

males to find the defendant not guilty, $F(1,112) = 16.95$; $p < .01$. Following deliberations, however, males and females did not differ, $F(1,112) = .52$; $p > .05$.

Simple effects performed on the main effects of Gender and Verdicts in the no Expert condition revealed that neither females, $F(1,157) = .55$; $p > .05$; nor males, $F(1,157) = .37$; $p > .05$ differed across pre-post deliberation Verdicts. However, simple effects performed both prior to, $F(1,115) = 9.83$; $p < .01$; and following deliberations, $F(1,115) = 8.65$; $p < .01$ revealed that females were more likely than males to find the defendant not guilty.

The Gender by Expert by pre-post deliberation Verdict interaction was also broken down by Gender into two way interactions between Expert and pre-post deliberation verdicts. A significant interaction was evident between Expert and pre-post verdict for females, $F(2,157) = 4.81$; $p < .01$, and for males, $F(2,157) = 3.32$; $p < .05$. Simple effects performed on the former interaction revealed that females changed their verdicts from not guilty to guilty following deliberation proceedings in the Expert condition, $F(1,157) = 9.06$; $p < .01$. However, the frequency of guilty verdicts did not change across deliberation proceedings for females in the no Expert condition, $F(1,157) = .55$; $p > .05$. Conversely, males more frequently found the defendant not guilty in the Expert condition following deliberation proceedings, $F(1,157) = 6.28$; $p < .05$. Similar to the findings for females, verdicts were not altered across deliberation proceedings for males in the no Expert condition, $F(1,157) = .37$; $p > .05$.

Simple effects performed at pre-deliberation Verdict and post deliberation Verdict suggested that verdicts did not vary for either females or males as a function of Expert.

The Gender by Verdict interaction is displayed as a function of Expert in Figure 1. In addition, the relevant means and standard deviations for the Gender by Expert by Verdict interaction are presented in Table 2.

Insert Figure 1 and Table 2 about here

Private Ratings of Guilt

A nested 2 x 2 x 2 x 4 (Defense x Expert x Gender x Intervals) mixed ANOVA with three between subject variables (Defense, Expert and Gender) and one within subject variable (Intervals) performed on the 4 private beliefs measures (Intervals) revealed a significant main effect for Gender, $F(1,156) = 31.06$, $p < .001$. Females more frequently believed the defendant was not guilty (mean = 4.6 ± 2.8) than males (mean = 6.7 ± 2.8). The testimony of an Expert witness and the Defense used by the defendant did not statistically influence private belief ratings in the defendant's guilt. In addition, no differences were evident within the 4 recordings of private beliefs, $F(3,468) = 2.5$; $p > .05$, suggesting that opinions of guilt remained fairly consistent across experimental proceedings. No significant interactions between Intervals and any of the independent variables were noted.

Figure 1 The means $\pm$ standard error of the mean (SEM) for pre and post deliberation Verdicts are depicted as a function of Gender and Expert.

EXPERT

NO EXPERT

2

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

Table 2: Juror Verdict: Gender x Expert x Pre-Post Delibertion Interaction

Means and standard deviations are displayed for the interaction between Gender x Expert x pre and post deliberation Verdict.

Gender x Expert	Deliberation Verdict	
	Pre	Post
Male/ Expert (n=65)	1.64 $\pm$.48	1.52 $\pm$.50
Male/ No Expert (n=69)	1.59 $\pm$.49	1.62 $\pm$.49
Female/ Expert (n=57)	1.30 $\pm$.46	1.46 $\pm$.50
Female/ No Expert (n=46)	1.30 $\pm$.47	1.35 $\pm$.48

Credibility Ratings

A 2 x 2 x 2 (Gender x Defense x Expert) ANOVA completed on the defendant's Credibility ratings revealed a main effect for Defense, $F(1,221) = 4.64$; $p < .01$. Analyses of means suggested that subjects in the self defense condition considered the defendant more credible (mean = $3.8 \pm .9$) than subjects in the automatism condition (mean = 3.3 ± 1.2).

Acceptance of Wife Abuse Myth Scale (AWAM)

An exploratory factor analysis was performed on the AWAM scale in order to determine whether an underlying factor structure could be identified. A variety of extraction and rotation methods were used and three factors consistently emerged. However, Cronbach's alpha reliability coefficients generated for the factors indicated that the factors were not reliable (i.e., coefficients ranged from .65 to .71). Consequently, an inter-item reliability check was performed on the entire 25 item scale and resulted in an acceptable Cronbach's alpha coefficient of .76. Table 3 displays the means and standard deviations for all the items, the item to total correlation and the squared multiple correlation for each item.

Insert Table 3 about here

A test - retest analysis was also performed on a subsample of subjects ($n = 46$) who completed the AWAM during the mass testing session and then again 6 months later. Pearson's product

Table 3: Reliability Co-Efficients for the Acceptance of Wife Abuse Myth Scale

<u>Item</u>	<u>Mean + S.D.</u>	<u>Item - Total Correlation</u>	<u>Multiple Correlation</u>
1.	2.9 ± 1.4	.32	.28
2.	1.8 ± 1.1	.38	.33
3.	1.4 ± .8	.47	.36
4.	2.6 ± 1.4	.43	.40
5.	2.6 ± 1.5	.33	.35
6.	2.0 ± 1.2	.42	.34
7.	1.9 ± 1.1	.39	.35
8.	3.7 ± 1.7	.36	.32
9.	3.2 ± 1.7	.40	.31
10.	4.2 ± 1.6	.31	.28
11.	3.2 ± 1.3	.38	.29
12.	3.5 ± 1.7	.14	.27
13.	3.1 ± 1.6	.17	.24
14.	4.0 ± 1.4	.32	.28
15.	2.4 ± 1.6	.19	.23
16.	4.0 ± 1.9	.29	.39
17.	2.8 ± 1.6	.06	.24
18.	2.1 ± 1.2	.39	.35
19.	3.5 ± 1.8	.19	.26
20.	1.3 ± .8	.31	.35
21.	2.2 ± 1.5	.14	.29
22.	1.9 ± 1.1	.39	.29
23.	1.3 ± .8	.25	.16
24.	3.0 ± 1.8	.24	.29
25.	2.3 ± 1.5	.36	.20

Alpha = .76

Standardized Alpha = .78

moment coefficient revealed a correlation coefficient = .70, suggesting that the scale has moderate test - retest reliability.

Scores on the AWAM administered during mass testing and the AWAM administered at the conclusion of the Experiment were analysed using a 2 x 2 x 2 x 2 mixed ANOVA with Defense, Expert and Gender as the between variables and Time of administration as the within subject variable. A significant main effect for Gender, $F(1, 229) = 9.49$, $p < .01$, was qualified by a significant Defense by Gender interaction, $F(1, 229) = 4.22$, $p < .05$. Examination of the means associated with the interaction (see Appendix C) indicated that females endorsed fewer misconceptions in the self defense condition than males in the self-defense condition, $F(1, 60) = 7.56$; $p < .01$. No other significant differences were noted at the level of the between subject's variables. The scores on the AWAM scale are displayed in Figure 2 as a function of Gender and Defense.

Insert Figure 2 about here

Analysis of the within subject variable also revealed a significant difference between pre and post experimental AWAM scores, $F(1, 229) = 20.84$, $p < .001$. All subjects had significantly lower scores on the second administration (mean = 63.6 ± 9.0) as opposed to the AWAM administered during mass testing (mean = 67.5 ± 13.9).

Figure 2. Scores $\pm$ SEM obtained on the AWAM scale are displayed as a function of Gender and Defense.

Correlations

Table 4 displays the Pearson product moment correlations among the following 6 variables collapsed across gender: credibility ratings for the defendant, scores on the AWAM scale administered both prior to and following experimental participation, pre and post deliberation Verdicts, and Private Belief Score. A single private belief score was computed because previous analyses suggested that private belief in guilt ratings did not vary across administrations. As revealed in Table 4, private belief in guilt rating and pre-post deliberation verdicts correlated negatively with the credibility rating of the defendant. This suggested that the greater the belief in guilt, the less credibly the witness was viewed and the more likely subjects were to find the defendant guilty. Scores on the AWAM administered prior to the study correlated positively with private belief in guilt and pre-post deliberation verdict, suggesting that the more anti-battered woman beliefs a subject endorsed, the more likely they would be to believe, and find, the defendant guilty. Finally, and not surprisingly, private belief in guilt was strongly correlated with both pre and post deliberation verdict. Appendix C presents these correlations in separate tables as a function of gender.

Insert Table 4 about here

Table 4: Correlations for Experiment 1 Variables

Pearson product moment correlations for 6 variables collapsed across gender are presented. Co-efficients appear in the upper portion of the matrix while corresponding sample size is provided off diagonal in the lower portion of the matrix.

	<u>Pre</u> <u>AWAM</u>	<u>Post</u> <u>AWAM</u>	<u>Private</u> <u>Beliefs</u>	<u>Pre-</u> <u>Deliberation</u>	<u>Post-</u> <u>Deliberation</u>	<u>Defendant</u> <u>Credibility</u>
Pre AWAM	1.00	.46 **	.23**	.22**	.16*	-.12
Post AWAM	n=237	1.00	.11	.11	.15*	-.05
Private Beliefs	n=236	n=236	1.00	.79**	.58**	-.44**
Pre- Deliberation	n=237	n=237	n=236	1.00	.57**	-.38**
Post- Deliberation	n=236	n=237	n=236	n=237	1.00	-.21**
Defendant Credibility	n=229	n=229	n=228	n=229	n=229	1.00

** p < .01

* p < .05

Discussion

The results generated from Experiment 1 revealed that a not guilty verdict is not necessarily rendered following testimony from an expert witness in cases where a battered woman is charged with the death of her husband. Interestingly, the lack of a main effect for expert witness testimony in this mock jury scenario is consistent with the outcomes of actual courtroom proceedings. In particular, expert witness testimony on the battered woman's syndrome has been reported to be only marginally effective for increasing acquittal rates in actual cases (Ewing, 1987; Gillespie, 1989; Walker, 1989). Thus, the inconsistencies in the expert testimony (i.e., learned helplessness), may have acted to confuse the jury (Ewing, 1987; Schneider, 1989). It should also be considered that jurors may have failed to appreciate the relevance of the expert's testimony, particularly in the self defense condition (see Faigman, 1986). For example, expert witness testimony on the battered woman's syndrome does not alter the legal requirement that the use of deadly force is only defensible in situations of imminent danger.

These results, however, failed to support previous experimental findings suggesting that expert witness testimony could, in some cases, increase the frequency of acquittal rates (Follingstad, Polek, Hause, Deaton, Bulger & Conway; 1989). This variability in outcome between the present investigation and previous studies may relate to fundamental methodological differences. In contrast to the study by Follingstad et al. (1989),

the present Experiment employed a deliberation process and the expert witness was cross examined, thus simulating actual trial proceedings. Consequently, the present investigation paralleled actual courtroom proceedings more closely than that of Follingstad et al. (1989) which may explain why the results were consistent with those obtained in trial cases, but not consistent with the findings of Follingstad et al. (1989).

The results from Experiment 1 may help to clarify the influence that expert witness testimony has on final juror verdicts. The data generated in the present study suggested that expert witness testimony influenced individual verdicts during deliberation. Prior to deliberation, subjects differed in their verdicts as a function of gender, but not as a function of expert witness testimony. Females more frequently believed the defendant was not guilty while males believed more frequently that the defendant was guilty. However, following deliberation, males in the expert condition changed their verdicts from guilty to not guilty while females in the expert condition changed their verdicts from not guilty to guilty. Since a comparable change in verdicts was not evident in the no expert condition, it can be inferred that altered verdicts were a result of the expert witness testimony. Possibly, males and females in the expert condition evaluated the information provided by the expert witness and used the information to arrive at a compromise verdict. Conversely, subjects in the no expert condition had no additional information to support either guilty or not guilty arguments.

Consequently, verdicts in the no expert condition did not change over deliberations.

Such an interpretation is supported by an experimental investigation by Schuller (1990). Videotaped recordings of mock jury deliberation proceedings were conducted following testimony of an expert witness on the battered woman's syndrome and compared to recordings of deliberation proceedings where no expert witness had been presented. Schuller (1990) reported that mock jurors who had viewed the expert evaluated the evidence longer and eventually interpreted the evidence more favorably compared to those that did not view an expert. It might be suggested that the results in the expert condition in Experiment 1 were merely a result of jurors spending more time evaluating the evidence. However, as deliberation proceedings were timed, and no differences were evident between expert and no expert conditions, the time factor would not seem to be a central issue.

Jurors were most likely to find to the defendant guilty when a plea of self defense was used as opposed to a plea of automatism. These data support statistics gathered on actual trials comparing the acquittal rates associated with diminished capacity defenses and self defense pleas (Jones, 1980; Gillespie, 1989). For example, it will be recalled that following a review of 100 homicide cases in the United States, Ewing (1987) reported that 32% were successful following a self defense plea while all defendants entering an insanity defense were acquitted (i.e., $n = 3$). In the present study, use of the self defense plea resulted in a

30% acquittal rate while the automatism defense increased acquittal rates to 45%. Further archival research would be useful to assess a larger number of diminished capacity cases in order to insure a good estimate of acquittal rates.

The relative rates of acquittal following either an insanity or a self defense plea observed in this study were not consistent with previous experimental studies. Follingstad et al. (1989) reported that university students, acting as mock jurors, were more likely to invoke a not guilty verdict following a plea of self defense as opposed to automatism. Certain methodological considerations could account for the discrepancy in findings between the present study and Follingstad et al.'s (1989) investigation. For example, in the present investigation jurors had to deliberate to a unanimous verdict and, as evidenced by the change in verdicts across deliberation proceedings, the effect of having to defend or refute opinions altered the final outcome. In addition, the scenario used in the present study to describe the antecedent events leading up to the homicide paralleled the weakest evidence condition in Follingstad's investigation. For example, in the strong evidence condition, the husband in Follingstad et al.'s (1989) study was advancing towards his wife with a weapon when she shot him. Conversely, in the weak evidence condition, the husband was killed in his sleep after verbally threatening the wife and vowing to "give her what she deserves when he woke up" (p.259). Follingstad et al. noted that the strongest evidence condition was most likely to result in

acquittals, although no breakdown of percentages associated with levels of evidence were presented. It should be noted, however, that the ambiguous circumstances described in the present study were most reminiscent of cases involving spousal homicide.

Although the AWAM scale correlated with verdict outcome, the correlation was weak. There are several possible reasons for this. First, it became apparent while scoring the results from this scale that several of the terms used in specific items were not understood by the students (e.g., masochism, psychopathic). Consequently, a large number of students failed to complete these items and doubt was cast on the validity of the responses of those who did. In addition, several of the items were somewhat ambiguous and open to interpretation, as noted from comments written on the questionnaires and feedback provided by subjects during the debriefing. For example, the term 'battered woman' was not operationalized on the questionnaire and it became apparent that subjects were defining the term broadly. Similarly, items such as "sometimes a man has to hit a woman" were construed in unexpected ways. For example, some students reasoned that a 'strongly agree' response was appropriate for the item described above because a woman might need to be hit on the back if she were choking or on the chest if she were having a heart attack. Consequently, in order to make the scale more useful in future research efforts, terms should be operationalized and simplified, and statement meanings need to be clarified.

Finally, low correlations between attitudinal variables and

verdicts have been observed in mock jury research in general. Follingstad et al. (1989), for example, observed that acceptance of violence in relationships and a belief in a 'just world' only accounted for 8% of the total variance in jury verdicts. Similarly, Spanos, Dubreuil and Gwynn (in press), and Gabora (1990) found significant but weak correlations between verdicts in rape and child sexual assault mock jury studies and attitudinal variables. Thus, although attitudes seem to be reliably correlated with verdict outcome, the variance accounted for by attitudes and beliefs appears relatively small.

Experiment 2

As previously discussed, the two main defenses employed by battered women were likely to result in relatively low rates of acquittals because of the circumstances surrounding the death of an intimate partner and the existing laws that govern the use of such pleas. Ewing (1987) has argued that although some women may not be confronted with the choice of killing or being killed by an abusive partner, they may lead an existence devoid of meaning because of the batterer's control over them. In particular, Ewing has suggested that severely abused women are denied basic rights and freedoms. Part of a person's basic rights and freedoms, according to Ewing, include the right of an individual to experience life in a psychologically meaningful manner; a right that the batterer, by his actions, has denied his partner. This has led Ewing to propose that a psychological self defense could

potentially be effective in addressing issues relevant to women in cases where they kill an abusive partner.

The plea of psychological self defense is based on a broader concept of the traditional plea of self defense. According to Ewing (1987), a plea of psychological self defense would be entered by a defendant in order to justify the use of deadly force to prevent a serious and immediate threat to their psychological well being. Ewing defines serious and immediate threat to psychological well being as "... gross and enduring impairment of one's psychological functioning which would significantly limit the meaning and value of one's physical existence" (p. 79).

Ewing has stated that there are three legal precedents that justify the introduction of a psychological self defense plea into current legal practice. The first precedent reflects that fact that existing laws governing self defense justify the use of deadly force to prevent serious bodily harm; not only to prevent death. Ewing suggests that the law recognizes the right to use deadly force in situations other than those that threaten physical existence. Consequently, the use of a psychological self defense plea as justification for the use of deadly force would not necessarily conflict with existing legal statutes.

The second legal precedent is more nebulous but incorporates an underlying concept of justice that protects an individual's right to autonomy. Acceptance of the psychological self defense plea would strengthen an individual's right to protect their autonomy by ensuring the right to experience existence in a

psychologically meaningful manner (see discussion above).

The final legal basis for a psychological self defense plea is what Ewing refers to as the legal principle of lesser evils. Again, existing self defense laws recognize that an aggressor attempting to cause death or serious physical injury has, to some extent, waived his/her rights of equal protection under the law and bears some culpability for his/her own death. Ewing suggests that a battered woman's right to prevent gross and enduring impairment of her psychological well being would have to be weighed against the rights of the batterer.

Ewing has anticipated criticisms of a psychological self defense plea which include the following: (a) such a defence would undermine the intended deterrent effects of the law and thus the number of homicides would increase drastically; (b) that introduction of such a defense would lead to spurious claims of psychological self defense; and (c) such a defense could not be implemented fairly. Each of these points, accompanied by specific criticisms, will be discussed in turn. More general criticisms of Ewing's proposed psychological self defense plea follow.

There is considerable debate as to whether punishment is effective for deterring crime in general and homicides in particular. The effectiveness of a deterrent assumes that the defendant considered the legal consequences of his/her actions. There have been no empirical studies assessing whether female domestic homicide offenders had, at the time of the incident, consciously considered the criminal consequences of committing

the act and then conducted a cost benefit analysis in order to determine whether or not to proceed. Anecdotal evidence suggests that such considerations do not figure very prominently in such cases (see for example, Gillespie, 1989). It should be noted, however, that case reports have suggested female homicide offenders understood that their behavior was legally wrong, but felt that no other option was available to them (for discussion of 'choice', see below). In terms of deterrence, however, there is little evidence to suggest that battered women found not guilty on one homicide charge then proceed to commit another lethal act (c.f., MacDonald & Gould, 1987). Consequently, Ewing suggests that deterrence is not a particularly effective argument against a psychological self defense plea.

A more serious criticism of a psychological self defense plea is that such a defense would be used by individuals who are legally culpable of murder but are attempting to escape the consequences of their actions. Ewing suggests several strategies to reduce such claims. The first suggestion is to allow the burden of proof for such a claim to rest with the defendant (Note: Current laws provide that the burden of proof falls on the prosecution to prove, for example, that the defendant was not acting in self defense). In addition, Ewing suggests that such proof would have to be supported with a considerable amount of evidence. However, it is not clear what the nature of such evidence would be (e.g., expert witness testimony; Morse, 1990). A final suggestion to limit spurious claims of psychological self defense would be to have the

defendant demonstrate that there was also a threat to physical well being at or around the time of the incident. By including this requirement, however, a psychological self defense is, to some extent, indistinguishable from traditional self defense pleas. Ewing asserts, however, that these provisions would allow no more spurious claims of psychological self defense than would any other plea used by defendants to justify homicide.

The final argument against the proposed doctrine of psychological self defense as discussed by Ewing is the issue of whether the defense could be implemented fairly. Ewing suggests that as with any other defense, the evidence would have to be presented to a jury and that jury would be expected to come to a conclusion based on the evidence and the application of the existing laws. The jury would have to be convinced of the reasonableness of the defendant's belief (i.e., that they were in fear of suffering gross and enduring impairment of their psychological well being that would ultimately limit the meaning of their life). In addition, such a belief would have to be supported by the evidence. It appears, however, that Ewing would favor a subjective interpretation of the term reasonableness which could prove problematic (see discussion below).

Ewing has suggested that there is no reason to suppose that use of the psychological self defense plea would be any more difficult to implement than are either insanity or self defense pleas. Conversely, Morse (1990) suggests, that evidence can be generated in support of insanity and self defense cases that would

be inconceivable in cases of psychological self defense. For example, Morse suggests that it would be difficult to postulate indicators that would clearly distinguish 'extinction of the psychological self' from other factors, such as depression. According to Ewing, however, use of the psychological self defense plea by female domestic homicide offenders would result in more acquittals because the defense more accurately reflects the circumstances and motivations of the parties involved.

Morse (1990) has questioned both the scientific foundation on which a plea of psychological defense would be based and the legal premise asserting that such a defense could be used as a justification for homicide. First, Morse noted that the definition of psychological injury resulting in 'limiting the meaning and value of one's life' (consequently provoking the use of deadly force) is ambiguous and lacking empirical support. For example, there is no evidence to support the notion that battered women killed their abusers to prevent psychological injury. Rather, most women have argued that they feared for their physical well being. Furthermore Morse argued that what evidence is available suggests that the best predictors of spousal homicide are characteristics relevant to the batterer (i.e., severity and chronicity of abusive acts) rather than personality characteristics of the battered woman (e.g., strong sense of self preservation). It has been suggested that psychological abuse is a characteristic of virtually all battering relationships (Walker, 1984; Browne, 1987). Consequently, Morse has suggested that Ewing's psychological self defense would fail to

account for the reason all battered woman do not resort to the use of deadly force. Finally, as previously reviewed, the theoretical basis and empirical support for the battered woman syndrome is questionable. Consequently, Morse argued that even if such a syndrome was accepted as reliable, it does not necessarily mean a person should be absolved from responsibility for homicide.

The issue of responsibility is the second major consideration raised by Morse (1990) to Ewing's proposed doctrine of psychological self defense. Ewing presented psychological self defense as a justification for homicide. Legal justification suggests that the actor was fully responsible for their behavior and acted in an objective, as opposed to subjective, reasonable manner. Thus, killing someone in self defense suggests that the potential victim of imminent death or serious bodily harm used deadly force to protect themselves, in part, because the circumstances surrounding the incident were beyond their control. Morse argued that the actions of a female homicide offender could be interpreted more accurately as excusable, as opposed to justifiable. Behavior can be legally excused if the action is considered wrong, but the actor was not considered to be responsible (i.e., diminished capacity pleas). According to Morse, a battered woman who kills her abuser to prevent psychological 'death' is not rational, consequently not responsible, if she believed no choice other than deadly force could prevent psychological injury. Furthermore, the circumstances which may

have brought a woman to the irrational belief that no other option was available may be deplorable, but it does not alter the fact that objectively, deadly force was not warranted. Consequently, the plea of psychological self defense, according to Morse, would simply expand the legitimacy of using homicide in circumstances where no such expansion is necessary.

The question arises as to whether a jury would accept a plea of psychological self defense as justification for homicide. Accordingly, the purpose of Experiment 2 was to assess the likelihood of acquittal in cases where the defendant pleads not guilty to the charge of second degree murder by reason of psychological self defense. It could also be argued that specific circumstances surrounding the use of such a plea would play a pivotal role in a decision to acquit. Accordingly, the severity and frequency of abuse in the relationship was manipulated. It was hypothesized that jurors would be more likely to find the defendant, using the psychological self defense plea, not guilty under conditions of severe abuse as compared to situations where the abuse was of a less severe nature. In addition, it was hypothesized that the psychological self defense plea would be more successful than either of the traditional defenses (i.e., self defense and insanity) used by battered women who kill their spouses.

Method

Subjects

A total of 369 subjects (233 females and 136 males) drawn from the introductory psychology students at Carleton University were invited to participate in a jury simulation experiment in exchange for course credit. Subjects were organized into groups consisting of 5 to 8 members (mean number of jurors per jury = 6; 4 females, 2 males). This resulted in the formation of 60 juries ($n = 10$ per condition).

Testimony

Six videotapes simulating a trial of a battered woman charged with the second degree murder of her husband were made. The format of the videotapes was identical to that described in Experiment 1 (i.e., opening statements, witnesses for the prosecution followed by cross examination, witnesses for the defense and cross examination, closing statements). The frequency and severity of abuse was varied (i.e., severe or moderate) as was the type of plea offered by the defense (i.e., self defense, automatism or psychological self defense). The actors were recruited as described in Experiment 1.

The roles ascribed in the severe abuse conditions, including the testimony of an expert witness, were identical to those described in Experiment 1 (see Appendix F for copy of script). A neighbor was substituted for the domestic dispute officer in the moderate abuse conditions. Testimony from witnesses for the defense was altered slightly to reflect moderate rather than

severe abuse. For example, the medical doctor testified only to the examination that was conducted on the night of the homicide. All actors were male with the exceptions of the battered woman, the neighbor/ domestic dispute officer and the medical doctor.

Videotapes

The first three videotapes conveyed the history of a woman subjected to moderate abusive incidents by her husband over a 3 year period. Moderate abusive incidents included her reported accounts of receiving black eyes on several occasions, having suffered a miscarriage as a result of receiving blows to the abdomen, having been raped once and being threatened with a gun on the night prior to the homicide. In addition, she testified that her husband was a jealous man who attempted to isolate her from both family and friends. Her testimony will be substantiated by testimony from a neighbor who heard, although never personally observed, the defendant being accosted by her husband. The circumstances surrounding the night of the victim's death will be identical to that described in Experiment 1.

In the severe abusive conditions, the battered woman testified that in addition to the abusive incidents discussed above, she received broken bones, had teeth knocked out and was tied to a chair and repeatedly beaten on one occasion. Her testimony will be supported by testimony from a medical doctor and a police officer. The defendant's account of the events leading up to the homicide will be identical to those described in the moderate abuse condition. The opening and closing statements from the

defense also recalled for the jury the severity of the attacks made upon the defendant.

The type of plea used was varied across the videotapes in an identical manner to that described in Experiment 1. The pleas of self defense and automatism were identical to those described in Experiment 1. In the third videotape, the defendant pled not guilty to the charge by reason of psychological self defense. Psychological self defense was defined for the jury by the judge in his opening statements and reflected the definition used by Ewing (1987).

Procedure

A total of 10 juries consisting of 5 to 8 members viewed one of the following 6 conditions; (1) self defense plea/ severe abuse, (2) self defense plea/ moderate abuse, (3) automatism plea/ severe abuse, (4) automatism plea/ moderate abuse, (5) psychological self defense/ severe abuse (6) psychological self defense/ moderate abuse.

The instructions to the subjects for the viewing arrangements were identical to those described in Experiment 1. In addition, the videotape was stopped after the following trial procedures in order to obtain a private belief in guilt rating; opening statements from the judge, prosecution and the defense; after the witnesses including the battered woman and cross examinations; after testimony and cross examination of the expert witness and at the conclusion of the videotape. A belief in guilt rating was also obtained from subjects at the conclusion of

the experiment.

Credibility ratings for trial participants were also conducted at the conclusion of the videotape as described in Experiment 1. Tally and debriefing procedures were also identical to those previously described.

Results

Identical scoring procedures to those in Experiment 1 were used to record juror pre - post deliberation verdicts, (i.e., a 'not guilty' verdict received a score of 1 and a guilty verdict received a score of 2) and jury verdicts (3 = guilty, 2 = hung and 1 = not guilty). Table 5 presents a frequency count of jury verdicts by Defense (self defense, automatism, psychological self defense) and Abuse Severity (severe and moderate). Similar to the findings in Experiment 1, juries were as likely to acquit (40%) as they were to convict (38%).

If the severity of abuse is taken into account, the proportion of guilty, to not guilty verdicts, is virtually reversed (15 guilty vs. 9 not guilty in the moderate abuse condition and 8 guilty vs. 15 not guilty in the severe abuse condition). Specifically, juries were much less likely to find the defendant guilty if she reported severe abuse in the self defense or psychological self defense conditions. Severity of abuse did not effect trial outcome when a plea of automatism was entered (a single guilty verdict was rendered in both the severe and moderate abuse conditions). Overall, juries most frequently found the defendant guilty in the self defense and psychological self defense conditions (60% and

45% respectively) as compared to the automatism condition (10%).

Insert Table 5 about here

Jury Composition

It could be argued that the ratio of males to females in a particular jury might influence the deliberation processes, which would ultimately be reflected in jury verdicts. In order to assess this possibility, jury verdicts were analysed as a function of Abuse Severity and Defense with the ratio of males to females in a given jury treated as a covariate. The analysis of covariance revealed that the ratio of males to females was not significant, $F(1, 53) = .22$; $p = .64$. Consequently, the influence of the proportion of males to females in a given jury was ignored in subsequent analyses.

Jury Verdicts

Final jury verdicts (i.e., guilty, hung or not guilty) were analysed using a 2×3 ANOVA with Abuse Severity (moderate vs. severe) and Defense (self defense vs. automatism vs. psychological self defense) as the independent variables. The results indicated a main effect for Defense, $F(2, 54) = 4.52$; $p < .02$; $h^2 = .13$. Newman Keuls post hoc comparisons ($\alpha = .01$) performed on the means associated with Defense suggest that subjects were most likely to find the defendant not guilty in the automatism condition as compared to the self defense condition. The frequency of acquittal did not differ between the automatism condition and the

Table 5: Jury Verdicts

Frequency of guilty, not guilty and hung juries are presented as a function of Defense and Abuse Severity.

Type of Defense							
Abuse Severity	Self Defense		Automatism		Psychological Self Defense		Totals (%)
	Moderate	Severe	Moderate	Severe	Moderate	Severe	
Guilty	8	4	1	1	6	3	23 (38%)
Not Guilty	1	5	6	5	2	5	24 (40%)
Hung	1	1	3	4	2	2	13 (22%)
Totals	10	10	10	10	10	10	60

psychological self defense condition or the latter condition and self defense.

A significant main effect was also noted for Abuse Severity, $F(1,54) = 4.24$, $p < .05$; $h^2 = .06$. Juries were more likely to find the defendant not guilty when Abuse Severity was severe (mean = $1.76 \pm .86$) as opposed to moderate (mean = $2.2 \pm .88$).

Final jury verdicts are presented as a function of Abuse Severity and the Defense in Figure 3. The means associated with each of these effects are presented in Table 6.

Insert Figure 3 and Table 6 about here

Juror Verdicts

The verdicts of individual jurors were assessed prior to and following deliberation procedures using a nested, $3 \times 2 \times 2 \times 2$ mixed ANOVA with Defense, Abuse Severity and Gender as the between subject variables and pre - post deliberation Verdict as the within subject variable. Juries were nested within treatment. The analysis revealed significant main effect for Defense, $F(2, 249) = 11.43$; $p < .001$; adj. $h^2 = .26$; Abuse Severity, $F(1, 249) = 5.72$; $p < .001$; adj. $h^2 = .13$ and Gender, $F(1, 249) = 1.42$; $p < .005$; adj. $h^2 = .03$. A significant Abuse Severity $\times$ Defense interaction was also identified, $F(2, 249) = 3.65$; $p < .001$; adj. $h^2 = .08$. However, these effects were qualified by a significant four way interaction between Defense, Abuse Severity, Gender and Verdicts, $F(2, 249) = 1.18$; $p < .001$; adj. $h^2 = .06$. This four way interaction is

Figure 3 The means $\pm$ SEM for Jury Verdicts are represented as a function of Abuse Severity and Defense.

Table 6: Jury Verdicts x Type of Defense and Abuse Severity.

Means and standard deviations for jury verdicts are presented as a function of Defense and Abuse Severity.

Abuse Severity	Type of Defense			Means
	Self Defense	Automatism	Psychological Self Defense	
Severe	1.9 ± .99	1.6 ± .70	1.8 ± .92	2.23
Moderate	2.7 ± .67	1.5 ± .71	2.4 ± .84	1.80
Means	2.3 ± .92	1.55 ± .69	2.1 ± .91	

represented by two way interaction graphs in Figure 4. The means associated with the four way interaction are provided in Table 7.

Insert Figure 4 and Table 7 about here

In order to assess the four way interaction, significant three way interactions were confirmed between Defense, Gender and Verdicts in the moderate abuse condition, $F(6, 249) = 4.26$; $p < .001$; and in the severe condition, $F(6, 249) = 4.73$; $p < .001$. Each of the three way interactions were subsequently broken down by Gender into significant two way interactions between Defense and Verdict. The results for each two way interaction will be discussed separately. It should be noted that a modified Bonferroni ($\alpha = .017$) was used to test simple effects in the ensuing analyses and all Newman Keuls post hoc comparisons were performed with an alpha level = .01.

Females /Moderate Abuse

The simple main effect for Defense attained significance for females in the moderate abuse condition, $F(2, 114) = 63.5$; $p < .01$. Newman Keuls post hoc comparisons confirmed that females more frequently found the defendant not guilty following a plea of automatism than following either a self defense or a psychological self defense plea. There were no differences in verdicts associated with either of the latter two pleas. The main effect for pre-post deliberation verdict was also significant, $F(1, 114) = 6.5$; $p < .01$; and indicated that females in the moderate abuse condition more

Figure 4 The means $\pm$ SEM for pre and post deliberation verdicts are displayed as a function of Defense. Graphs are broken down according to Abuse Severity and Gender: (a) females in the moderate abuse condition, (b) Females in the severe abuse condition, (c) males in the moderate abuse condition and (d) males in the severe abuse condition.

Table 7: Gender x Defense x Abuse Severity x Verdict

Means and standard deviations of verdicts are presented as a function of the type of Defense and pre - post deliberation Verdict. Groups are broken down according to Gender and Abuse Severity.

FEMALES/MODERATE

Deliberation	Type of Defense			Means
	<u>Self</u> <u>Defense</u>	<u>Automatism</u>	<u>Psychological</u> <u>Self Defense</u>	
<u>Pre</u>	1.6 ± .5	1.2 ± .4	1.5 ± .5	1.4 n=117
<u>Post</u>	1.8 ± .4	1.2 ± .4	1.6 ± .5	1.5 n=117
Means	1.7 ± .5 n = 94	1.2 ± .4 n = 64	1.5 ± .5 n = 76	

FEMALES/SEVERE

	Type of Defense			Means
	<u>Self</u> <u>Defense</u>	<u>Automatism</u>	<u>Psychological</u> <u>Self Defense</u>	
<u>Pre</u>	1.3 ± .5	1.4 ± .5	1.4 ± .5	1.4 n = 96
<u>Post</u>	1.6 ± .5	1.3 ± .5	1.4 ± .5	1.4 n = 96
Means	1.5 ± .5 n = 80	1.3 ± .5 n = 80	1.6 ± .5 n = 72	

MALES/MODERATE

Deliberation	Type of Defense			Means
	<u>Self</u> <u>Defense</u>	<u>Automatism</u>	<u>Psychological</u> <u>Self Defense</u>	
<u>Pre</u>	1.6 ± .5	1.5 ± .5	1.8 ± .5	1.6 n = 67
<u>Post</u>	1.9 ± .3	1.3 ± .5	1.8 ± .4	1.6 n = 67
Means	1.8 ± .5 n = 38	1.4 ± .5 n = 48	1.8 ± .5 n = 48	

MALES/SEVERE

	Type of Defense			Means
	<u>Self</u> <u>Defense</u>	<u>Automatism</u>	<u>Psychological</u> <u>Self Defense</u>	
<u>Pre</u>	1.6 ± .5	1.3 ± .5	1.4 ± .5	1.5 n = 96
<u>Post</u>	1.4 ± .5	1.3 ± .5	1.4 ± .5	1.4 n = 96
Means	1.5 ± .5 n = 40	1.3 ± .5 n = 44	1.4 ± .5 n = 54	

frequently found the defendant guilty at post deliberation as compared to pre-deliberation.

Females /Severe Abuse

A significant interaction between Defense and pre - post deliberation Verdict was attained for females in the severe abuse condition, $F(1, 113) = 8.90$; $p < .01$. Analysis of pre-post deliberation verdict within Defense indicated that females who heard the self defense plea more frequently voted guilty following deliberations than prior to deliberations. Frequency of guilty verdicts did not change significantly from pre to post deliberation in the automatism or the psychological self defense conditions. At the pre-deliberation interval there were no significant differences in verdict between the three treatments, $F(2, 113) = .94$; $p > .05$. However, following deliberations, verdict outcome varied according to the type of Defense used, $F(2, 113) = 11.81$; $p < .01$. Newman Keuls post hoc analysis confirmed that females in the severe abuse condition were most likely to find the defendant guilty following a plea of self defense than after either an automatism or a psychological self defense plea. Verdicts in the latter two conditions did not differ significantly.

Males /Moderate Abuse

An interaction between the type of Defense and pre-post deliberation Verdict was revealed for males in the moderate abuse condition, $F(2, 64) = 7.69$; $p < .01$. Males in the self defense condition more frequently found the defendant guilty at post deliberation as opposed to pre-deliberation. However, the

frequency of guilty verdicts did not change significantly across deliberation in either the automatism or the psychological self defense conditions. When pre-deliberation verdicts were assessed as a function of Defense, a significant effect was identified, $F(2, 64) = 8.5$; $p < .01$. Post hoc Newman Keuls comparisons indicated that males in the moderate abuse condition more frequently found the defendant guilty following the psychological self defense plea as opposed to either the self defense or the automatism pleas. No other differences attained significance. The simple effect for Defense type at post deliberation was also significant, $F(2, 64) = 31.4$; $p < .01$. Post hoc comparisons revealed that males in the automatism condition less frequently found the defendant guilty than those in the self defense or psychological self defense conditions. Subjects in the latter two conditions failed to differ significantly in frequency of post deliberation guilty verdicts.

Males /Severe Abuse

The only significant simple main effect identified for males in the severe abuse condition was for Defense, $F(2, 66) = 4.38$; $p < .01$. Newman Keuls post hoc comparisons confirmed that males in the severe abuse condition found the defendant not guilty in the automatism condition more frequently than in the self defense or the psychological self defense conditions. No significant differences were evident in the latter two conditions.

Private Beliefs

In order to assess the effects of condition on the 5 private belief in guilt ratings, a nested $3 \times 2 \times 2 \times 5$ mixed ANOVA was

conducted using Defense, Abuse Severity and Gender as between subject variables and Intervals as the within subject variable. Subjects were again nested by condition in order to control for the effects of the deliberation proceedings.

Significant main effects were identified for Defense, $F(2, 249) = 6.99$; $p < .001$; adj. $h^2 = .06$), Abuse Severity, $F(1, 249) = 7.92$; $p < .005$; adj. $h^2 = .03$) and Gender, $F(1, 249) = 8.32$; $p < .005$; adj. $h^2 = .03$. The means associated with the main for effect for Gender revealed that females (mean = 5.3 ± 3.4) were less likely to believe the defendant was guilty than males (mean = 6.0 ± 3.3). The main effects for Abuse Severity and Defense were qualified by a Defense x Intervals interaction, $F(8, 996) = 2.35$; $p < .02$; adj. $h^2 = .02$, and an Abuse Severity x Intervals interaction, $F(4, 996) = 2.86$; $p < .03$; adj. $h^2 = .01$. Each interaction will be dealt with in turn.

The Defense by Interval interaction is displayed in Figure 5. Analyses of the simple effects of Intervals across each level of Defense yielded a significant effect only in the automatism condition, $F(4, 468) = 5.46$; $p < .01$. Post hoc Newman Keuls multiple comparisons ($\alpha = .01$) revealed that subjects' belief in guilt declined significantly following testimony from the expert witness and did not change significantly there after. This finding is supported by the simple effect analysis of type of Defense at each Interval. After testimony of the expert witness, $F(2, 468) = 7.3$; $p < .01$, subjects were less likely to believe that the defendant was guilty in the automatism condition than in the other

conditions. Ratings did not differ across Intervals in either the self defense condition or following a plea of psychological self defense. A table of means associated with the Defense by Interval interaction is provided in Table 8.

Insert Figure 5 and Table 8 about here

The Interval by Abuse Severity interaction is graphically depicted in Figure 6. The analysis of rating Interval within Abuse Severity revealed that subjects in the severe abuse condition believed less strongly in the defendant's guilt following her testimony than before it, $F(4, 732) = 4.69$; $p < .01$. The belief in guilt reported after the defendant's testimony did not change significantly across the remainder of the trials. Private belief in guilt ratings did not vary significantly across intervals in the moderate abuse condition, $F(4, 732) = .376$; $p > .05$.

The effects of Abuse Severity on belief in guilt rating were also assessed at each Interval. Following the defendant's testimony, subjects in the severe abuse condition believed less strongly in the defendant's guilt than those in the moderate condition, $F(1, 732) = 6.82$; $p < .01$. Means associated with this interaction are displayed in Table 9.

Insert Figure 6 and Table 9 about here

Figure 5 The mean score $\pm$ SEM for each recording of Private Belief in guilt rating are presented as a function of Defense.

Table 8: Defense x Interval Interaction

Means and standard deviations for private belief in guilt ratings are displayed as a function of Defense.

Private Belief Rating	Type of Defense		
	<u>Self Defense</u>	<u>Automatism</u>	<u>Psychological Self Defense</u>
<u>Interval 1</u>	6.1 $\pm$ 2.8	5.6 $\pm$ 2.5	6.1 $\pm$ 2.7
<u>Interval 2</u>	5.6 $\pm$ 3.8	5.2 $\pm$ 3.5	6.1 $\pm$ 3.5
<u>Interval 3</u>	5.8 $\pm$ 3.9	4.3 $\pm$ 3.6	6.2 $\pm$ 3.7
<u>Interval 4</u>	5.9 $\pm$ 4.1	4.4 $\pm$ 4.0	5.5 $\pm$ 4.2
<u>Interval 5</u>	6.7 $\pm$ 8.8	4.3 $\pm$ 4.0	5.9 $\pm$ 4.4
	n = 126	n = 118	n = 125

Figure 6 The mean score $\pm$ SEM for each Private Belief in guilt recording are presented as a function of Abuse Severity.

Table 9: Abuse Severity x Interval Interaction

Means and standard deviations for private belief in guilt ratings are displayed as a function of Abuse Severity.

Private Belief Rating	Abuse Severity	
	<u>Moderate</u>	<u>Severe</u>
<u>Interval 1</u>	6.0 $\pm$ 2.6	5.9 $\pm$ 2.8
<u>Interval 2</u>	6.2 $\pm$ 3.5	5.1 $\pm$ 3.6
<u>Interval 3</u>	6.0 $\pm$ 3.8	4.9 $\pm$ 3.7
<u>Interval 4</u>	5.8 $\pm$ 4.2	4.7 $\pm$ 4.0
<u>Interval 5</u>	6.1 $\pm$ 4.4	5.2 $\pm$ 7.6
	n = 184	n = 186

Experiential Variables

Subjects were also requested to complete a brief questionnaire designed to identify individual experiences that might have influenced both their private beliefs and pre - post jury deliberation verdicts (see Appendix B). Subjects were asked to indicate (a) whether or not they were aware of a recent decision in the Canadian courts that found a battered woman not guilty of homicide for reasons of self defense (this variable will be referred to as Courts), (b) whether or not they, or anybody they knew had been involved in a battering relationship (this variable will be referred to as Abuse Experience) and (c) to briefly describe the reasons they had for finding the defendant either guilty or not guilty. Responses to each of these questions is addressed in turn.

Approximately 47% of the subjects indicated that they had personal experience with physical abuse. However, the wording of the question did not allow for the determination of whether individual subjects had personal experience with abuse or whether they were merely familiar with someone who had been physically abused by a partner. Only 19% of subjects indicated that they were aware of recent decisions in Canadian courts regarding cases similar to the one observed in Experiment 2. It should be noted that upon discussion of this point during debriefing, individual subjects were not particularly accurate in describing relevant cases. Consequently, this variable was eliminated from further analyses.

A 2 x 2 x 2 mixed ANOVA was performed on pre and post deliberation verdicts using Abuse Experience and Gender as the between subjects variables and pre - post deliberation Verdicts as the within subject variable. A significant main effect was noted for Abuse Experience, $F(1,317) = 6.90$; $p < .01$. Subjects who were familiar with an abusive relationship more frequently found the defendant not guilty (mean = $1.4 \pm .44$) than subjects who indicated 'no' to the Abuse Experience question (mean = $1.53 \pm .43$). It was noted that the Gender by Abuse Experience interaction approached, but failed to attain significance, $F(1,317) = 1.60$; $p < .20$. This interaction is graphically displayed in Figure 7 and the means are identified in Table 10.

Insert Figure 7 and Table 10 about here

Verdict Justifications

In order to analyse the proffered justifications by individual subjects for post deliberation verdicts, each subject's response was classified into one of the following 6 categories: (1) legal arguments, (2) reference to concrete physical evidence, (3) reliance on psychiatric testimony, (4) victim blaming statements, (5) witness credibility statements and (6) statements pertaining to morality. This classification scheme was derived after reading all the responses and simply listing the type of argument presented. It was apparent that every response could be assigned to one of the 6 categories. In addition, within each argument category,

Figure 7 The mean score $\pm$ SEM for pre and post deliberation verdicts are displayed as a function of Abuse Experience and Gender.

Table 10: Abuse x Gender x Verdicts Interaction

Means and standard deviations for Verdicts are displayed as a function of Abuse Experience and Gender.

		Gender	
		<u>Male</u>	<u>Female</u>
Abuse Experience	<u>Yes</u>	1.37 $\pm$.41 n = 34	1.41 $\pm$.44 n = 116
	<u>No</u>	1.58 $\pm$.42 n = 84	1.48 $\pm$.44 n = 87

answers were coded as supporting either a not guilty (scored 1) or a guilty verdict (scored 2). Responses were then assessed independently by two scorers after the coding system was established. The inter-rater reliability coefficient was found to be $r = .91$. Table 11 displays the coding schema used, including some examples of each type of argument.

Table 12 displays the frequency distribution of responses under each argument category. Since subjects could potentially give more than one type of argument, a statistical analysis of whether guilty and not guilty verdicts were supported by specific arguments was not completed. However, as noted in Table 12, legal arguments, victim blaming statements and witness credibility statements were used more frequently to support a guilty verdict than a not guilty verdict. Alternatively, morality type statements, psychiatric testimony and physical evidence were used more often to support a not guilty verdict than a guilty verdict.

Insert Tables 11 and 12 about here

Correlations

Pearson product moment correlation coefficients were calculated for the following variables; pre-deliberation verdict, post deliberation verdict, abuse experience and a single measure of private belief. Not unexpectedly, pre deliberation verdicts correlated highly with post deliberation verdict and private belief in guilt. The latter two variables were also highly correlated with

Table 11: Classification Schema

Statements made by subjects at the conclusion of the Experiment to justify either a guilty or not guilty verdict were classified into six types of arguments. The following Table provides examples of the types of statements used.

1. Legal Arguments**Guilty**

- " She wasn't in imminent danger at the time"
- " She didn't use reasonable force"
- " I don't 'buy' the defense"

Not Guilty

- " I still had reasonable doubt"
- " The prosecution didn't prove their case"

2. Physical Evidence**Guilty**

- " She had to walk too far with the gun"

Not Guilty

- " The doctor said she had a head injury"
- " She had been severely beaten"

3. Psychiatric Testimony**Guilty**

- " She was faking not remembering"

Not Guilty

- " She 'snapped' at the time"
- " She suffered from the battered woman's syndrome"

4. Morality Statements**Guilty**

- " The bible says 'Thou shalt not kill'"
- " Murder is always wrong"

Not Guilty

- " Society needs more social support systems"
- " Woman are oppressed in our society"
- " Sometimes killing is justified"

5. Victim Related Statements**Guilty**

- " She should never have married him in the first place"
- " She should have left him"

Not Guilty

- " She had no other choice"

6. Witness Credibility Statements**Guilty**

- " She was lying"
- " She knew what she was doing"

Not Guilty

- "She believed she was going to die"

Table 12: Frequency Count of Arguments UsedFrequency count of arguments made to support either a guilty or a not
verdict

guilty

	Legal Arguments	Psychiatric Testimony	Moral	Physical Evidence	Witness Credibility	Victim Blaming	Total
Guilty	104	2	25	2	55	73	261
Not Guilty	39	32	51	31	36	37	226
Total	143	34	76	33	91	110	487

each other. Abuse experience correlated weakly with pre - post deliberation verdicts and private belief in guilt. These findings are presented in Appendix D.

Discussion

The results of Experiment 2 revealed that juries convicted the defendant more frequently following a plea of self defense as compared to a plea of automatism. The ratio of guilty to not guilty verdicts was 2:1 in the self defense condition (i.e., 66% guilty) and 6:1 in favor of a not guilty verdict in the automatism condition (i.e., 85% not guilty). These findings replicate the results of Experiment 1 and the relative success of these two different pleas in actual court room cases (see Ewing, 1987).

The effectiveness of the psychological self defense plea in obtaining acquittals for a battered woman charged with murder was more ambiguous. Juries were as likely to convict (i.e., 56%) as they were to acquit (i.e., 44%). When the psychological self defense was compared to either the automatism plea or the self defense plea used in Experiment 2, the results indicated 11% more acquittals than the traditional self defense plea but 41% fewer acquittals than in the automatism condition. The slight increase in acquittal rates for the psychological self defense plea as opposed to the self defense plea is comparable to the data of Greenwald, Tomkins, Kenning and Zavodny (1990). These investigators found that of the 30% of mock jurors who invoked a not guilty verdict, 5% were in the self defense condition while 15% were in the

psychological self defense condition. The remaining subjects were in a psychological and self defense condition or a control condition. It should be noted that there were no deliberation proceedings in Greenwald et al.'s (1990) investigation.

Greenwald et al. (1990) argued that the results from experimental findings suggested that the use of a psychological self defense as a viable legal doctrine was demonstrated. Consequently, Greenwald et al. (1990) and Ewing (1987) have expressed the opinion that law makers should consider this alternative as an option to the traditional plea of self defense. Alternatively, the results from both Experiment 2 and Greenwald's study could be interpreted to suggest that the propensity of jurors to embrace the use of the psychological self defense plea reflects the lack of precision and clarity of the plea. In fact, the relative success of the plea may be more readily interpreted as the type of a plea that allows jurors to express their biases (see discussion below). One way to examine this hypothesis would be to present a case to mock jurors in which the evidence in support of a psychological self defense plea was extremely weak. If jurors were still willing to find the defendant not guilty, it could be successfully argued that use of such a plea is unwarranted and open to interpretation.

The effects of abuse severity prior to the homicide also played a pivotal role in the number of acquittals when either a plea of self defense or psychological self defense was employed. Juries were twice as likely to find the defendant guilty in the

moderate abuse condition as compared to the severe abuse condition when either of these pleas were used. Interestingly, abuse severity had no influence on jury verdicts in the automatism condition. Juries in both the automatism/ severe abuse condition and the automatism/ moderate abuse condition were equally likely to find the defendant not guilty. These findings suggest that the degree to which abuse was varied in experimental circumstances was irrelevant to how subjects viewed the mental stability of the defendant. These findings will be dealt with in greater detail in the General Discussion.

Private belief in guilt ratings diverged significantly following testimony from the witnessess in the severe abuse condition relative to those in the moderate abuse condition. It will be recalled that following such testimony, jurors in the severe abuse condition were more likely to believe that the defendant was not guilty. These findings suggest that testimony regarding the experiences of the defendant influenced juror's beliefs about the potential danger evinced by the husband. Consequently, it could be postulated that jurors were convinced of the reasonableness of the defendant's actions given the previous history of abuse. Alternatively, subjects were specifically instructed to give a personal opinion, as opposed to being asked to consider the legal facts of the case, when completing the private belief in guilt rating scales. Consequently, the finding that jurors were more likely to believe that the defendant was not guilty following her testimony in the severe abuse condition, as opposed

to the moderate abuse condition, could simply reflect an increase in the amount of sympathy jurors felt for the defendant.

If just the results from the self defense and the psychological self defense conditions are examined, juries were more than three times as likely to find the defendant not guilty in the severe abuse condition as compared to the moderate condition. These findings support the experimental findings of both Follingstad et al. (1989) and Greenwald et al. (1990). Both investigations identified prehomicide conditions as the primary variables responsible for predicting not guilty verdicts.

Curiously, the effect of prehomicide abuse severity in actual trials is somewhat more ambiguous than the results of Experiment 2 would suggest. Certainly, the degree of abuse described in the severe abuse condition in the present study was minor in comparison to actual case history reports of women accused of homicide (c.f. Browne, 1987; Gillespie, 1989; MacDonald & Gould, 1987; Walker, 1989). Yet, acquittal rates remain relatively low in actual court cases. The possibility exists that legal variables are more central to the issue of guilt in actual court cases as compared to simulated trials than abuse severity. Alternatively, case histories presented in clinical reports describing circumstances surrounding female perpetrated domestic homicides may have been selected for dramatic qualities as opposed to representational properties. Consequently, prehomicide abuse severity in the present study may parallel actual court cases more closely than suspected. A comprehensive review of abuse severity

variables common to all homicide cases involving battered women or an assessment of these factors from a representational sample of such cases would be useful to resolve issues pertaining to abuse severity and verdict outcome.

Interestingly, the highest number of hung juries occurred in the automatism condition (i.e., 7 as opposed to 2 in the self defense condition or 4 in the psychological self defense condition). These findings could be used to support the contention that some jurors are likely to view psychiatric defenses with suspicion (Schneider, 1989; Ewing, 1987), in that some members of a jury are unlikely to accept the defense and consequently 'hang' the jury. Relatedly, the number of hung juries could reflect the lack of scientific evidence available to prove the defendant was in an altered state of mind (i.e., a state of automatism) at the time the crime was committed. In particular, cross examination of both the defendant and (in this case) the expert witness provided strong alternative interpretations for the defendant's behavior. Such a lack of proof could indeed fail to convince a juror of the validity of such a plea.

As in Experiment 1, individual jurors were most likely to convict the defendant following a plea of self defense. However, the interaction between the type of defense used, gender and abuse severity prevents a simple interpretation of these results. These data indicated that verdict outcome was not altered substantially across gender or abuse severity in the automatism condition. Thus, observed differences in verdict outcome appear to

stem primarily from gender and abuse severity differences in the self defense and the psychological self defense conditions. Overall, it appeared that females found the defendant not guilty more frequently in the psychological self defense condition relative to males. In addition, the discrepancy between guilty and not guilty verdicts in the moderate vs. severe conditions was not as extreme for females as it was for males regardless of plea. Females were more likely to provide a not guilty verdict regardless of the abuse severity. In addition, it will be recalled that a main effect for gender was evident across private belief in guilt ratings; females privately believed the defendant was not guilty compared to private belief ratings taken from males. These data, taken together, suggest that females may have been more likely than males to accept a psychological self defense plea, particularly under the moderate abuse condition.

Previous investigations have suggested that expert witness testimony containing explicit reference to the the case being tried is more effective than general expert witness testimony or no expert witness testimony (Brekke & Bogida, 1988; Gabora, 1990; Schuller, 1990). It will be recalled that in the present investigation, the content of the expert witness testimony remained constant, other than to reflect the specific plea being offered. It was of some interest to note, therefore, that the expert witness testimony had a significant impact on private belief in guilt ratings only in the automatism condition. These findings suggest that psychiatric testimony on the battered woman's

syndrome is useful only under circumstances where the sanity of the defendant is called into question.

It could be argued that juror characteristics and experiences would be an important variable in determining the outcome of a trial. Results from the present investigation support such a contention, although it should be noted that such results generated are only suggestive in nature. It will be recalled that subjects with some knowledge of an abusive relationship were more likely to find the defendant not guilty than subjects with no knowledge of an abusive relationship. It would be of some interest in future experiments to select subjects based on their experiences to assess the importance of personal experiences in determining the guilt or innocence of a defendant.

General Discussion

Experimental evidence generated from simulated trials employing mock juries has helped to identify variables relevant to acquittals across a range of cases (e.g., Spanos et al., 1991, Gabora, 1990). In the present Experiments, simulated trials were useful for evaluating variables that influenced outcomes in cases where a battered woman is charged with killing her husband. Some of these variables included the likelihood of acquittal based on the type of defense used, the effect of case variables on juror decisions (i.e., severity of abuse; testimony of an expert witness), the effect of gender on verdict outcome and the effects of pretrial attitudes that potentially influenced verdict outcome. Each of these variables will be discussed followed by a brief discussion on

the direction of the current response to wife assault.

Some researchers have argued that the relatively few acquittals observed following actual court trials of battered women charged with the death of their spouse are the result of legal discrimination. In particular it has been argued that the laws governing the use of self defense are sex biased (Schneider et. al.; 1978; Gillespie, 1989; Walker, 1984; Boyle, Bertrand, Lacerte-Lamontagne & Shamai, 1985). Indeed, some researchers have extended such criticism of the justice system to suggest that existing laws deny battered women the right to justifiable protection, particularly when the perpetrator is the husband (Gillespie, 1987; Browne, 1987; Schneider, 1980). The demonstrated success of diminished capacity pleas have been interpreted to suggest that a woman's only justifiable defense to a murder charge is to acknowledge that she is mentally ill. Consequently, some researchers have suggested that reliance on diminished capacity pleas in battered women's cases are a deterrent to changing the status quo (Walker, 1987; Gillespie, 1989).

Evidence generated from this investigation offers some support for these contentions. It will be recalled that jurors were more likely to find the defendant not guilty under the condition of automatism as opposed to self defense. These findings could be interpreted to suggest that jurors were willing to accept a stereotyped version of the battered woman. This stereotype would include the notion that a battered woman was mentally

unstable for staying with a man who abused her (Schneider, 1980). Thus, as long as the crime could be justified as a deficit in the woman's personality (i.e., mental illness), juries were willing to concede that the crime could not have been prevented (see discussion below on Averill, 1978).

In contrast to the stereotyped defense perspective, several researchers have suggested that the laws governing the use of self defense as a justification for homicide are rigid and narrowly defined (Rosen, 1986; O'Brien, 1982), while more legal latitude is available in diminished capacity defenses (Morse, 1990; Dahl, 1985; Fingarette, 1972). Thus, a strictly legal interpretation of the data without reference to the purported biases inherent in either the legal system or individual jurors is feasible. The findings of the present investigation may simply be a reflection of rules governing current legal doctrine. Consequently, it would be more difficult to obtain an acquittal under existing self defense laws as opposed to diminished capacity defenses regardless of the gender of the defendant or of the victim.

Averill (1978) has presented an argument to suggest that society recognizes the need for retribution (i.e., an eye for an eye). Obviously, however, there are legal barriers to discourage and punish perpetrators of violent acts, regardless of morality issues. In order to accommodate these seemingly opposing sentiments, Averill suggested that society has created a response to actions that reflects both perspectives, namely the temporary insanity defense or the 'crime of passion' (i.e., manslaughter) charge.

Averill argued that a person's behavior is actually construed as the actions of a person who is 'temporarily insane' in order to acknowledge the wrongfulness of the act, while at the same time excusing, legally culpable behavior. Thus, an individual could be found guilty of manslaughter, yet receive a minimal or suspended sentence for commission of the act.

The findings of the present investigation are consistent with the notion that most mock jurors found the defendant's behavior morally defensible, but legally culpable, as evidenced by the proportion of morality statements provided by mock jurors as a rationale for rendering a not guilty verdict, and the frequency of acquittals observed in the automatism condition. Likewise, in studies that have presented subjects with a choice of verdicts (i.e., first degree murder vs. manslaughter), subjects have usually chosen the least punishable charge (Poulson, 1990; see discussion below). Rather than viewing the use of diminished capacity defenses as repressive and a reflection of a sex biased judiciary system, Averill might argue that such pleas legitimize behavior that under 'normal' circumstances, would be prohibited. In essence, Averill suggested that such behavior is excused, as opposed to justified; a distinction that will be elaborated on in ensuing sections. It should be noted that although the distinction between excuse and justification for sanctioned behavior, such as homicide, has a long history in legal debates, (Rosen, 1986) the present discussion will focus only on how these issues pertain to battered women who kill.

Rosen (1986) explains the difficulty of obtaining an acquittal in battered women's cases based on a self defense plea as follows. Self defense is one of the ways an individual can legally justify homicide. In effect, although society condemns the taking of human life, the law recognizes that under specific circumstances, criminal liability can be waived. The circumstances under which self defense is accepted, have to be objectively defined to limit the potential occurrence of homicide. These objective standards include the requirement that the danger be imminent and second, that the defendant acted only to the extent necessary to protect him/herself. In essence, justifiable homicide suggests that the defendant, owing to unavoidable circumstances, had no other recourse except to use deadly force (Morse, 1990). The net effect of these stringent requirements is to prevent the encouragement of harmful behavior. Thus, an act is justified only if "the societal harm avoided outweighs the societal harm inflicted" (Rosen, 1986; p. 20). In cases where battered women have killed their spouse, Rosen (1986) argues that these stringent criteria for justifiable homicide, given the usual circumstances surrounding such cases, must be extended in order to consider the defendant's state of mind. Since the objective standard is typically employed in homicide cases, battered women seeking to justify their behavior are unlikely to be successful.

Rather than attempting to justify the killing of a battering spouse, defendants should seek to be legally excused for the behavior (Rosen, 1986; c.f. Kieviet, 1978). A court that excuses a

behavior recognizes that an act is wrong, however, the moral culpability of the defendant is taken into consideration when considering a verdict. Thus, the experiences and the state of mind of the defendant become important considerations in determining guilt. Diminished capacity defenses are, to some extent, defenses that seek to excuse rather than to justify homicide in battered women's cases. Consequently, the contention that battered women resort to homicide because they have no other alternative (which would be a necessary condition in order to justify homicide) can be reinterpreted to suggest that because of a battered woman's experiences, the defendant was under the mistaken belief that no other alternatives were available (see Morse, 1990). Similarly, Rosen argues that the needs of battered women, and of society in general, would be better met if self defense was categorized as an excuse, as opposed to a justification for homicide in battered women's cases.

The debate between excuse and justification in cases where battered women have killed their spouse is similar to the discussion on the use of objective or subjective standards of reasonable behavior previously reviewed. The reluctance of the courts to implement a subjective standard has led some researchers to suggest that a qualified self defense be used (O'Brien, 1982). The qualified self defense is basically a compromise solution to the subjective/ objective debate. A qualified self defense means that although a defendant failed to meet the objective standards necessary for the acceptance of self

defense, the court could simply find the defendant guilty of a lesser charge (i.e., manslaughter) if a lack of intent could be demonstrated. Thus, although the objective standard of reasonable behavior would not be replaced, the court would consider the motivations of the defendant in deciding the charge. Consequently, a defendant using a qualified self defense could potentially have a first or second degree homicide charge reduced to a manslaughter conviction (see review in Bailey, 1984; O'Brien, 1982).

Bailey, (1984) noted, however, that such a compromise could result in fewer acquittals than are presently observed under existing laws. It is likely that jurors, given an option of finding someone either guilty of manslaughter or not guilty of second degree murder, would be likely to choose manslaughter. On the basis of the arguments provided by Averill (1978), this would be particularly true in cases where battered woman killed their spouse. In such cases, jurors would object to allowing the act to go unpunished and yet, considering the circumstances that gave rise to the behavior, would also reject a severe punishment.

Experimental evidence generated from at least two sources supports the contention that jurors favor mild punishment for battered woman accused of murdering their spouse. Mock jurors have consistently found battered women guilty of manslaughter as opposed to not guilty of first or second degree murder charges when given a choice (Follingstad et al., 1989; Greenwald et al., 1990). Similarly, in the present series of Experiments, one of the most commonly asked questions by jurors was whether or not

they could reduce the charge from second degree murder to manslaughter or find the defendant guilty with the recommendation that she be given a lenient sentence. The question that remains to be determined, however, is whether or not the number of acquittals would decrease in total percentages if jurors were given a choice in options (i.e., murder vs. manslaughter).

It would be of some interest in future investigations to determine whether or not giving jurors instructions on the objective vs. subjective standard for behavior or the excuse vs. justification instructions for self defense would increase the rate of acquittals. In addition, an evaluation of the qualified self defense would help determine whether or not such a defense would indeed result in fewer acquittals as compared to the traditional self defense plea.

As previously noted, the testimony of an expert witness influenced verdict outcome during the deliberation process in Experiment 1 and was found to decrease the belief in the defendant's guilt in the automatism condition in Experiment 2. The limited success of expert witness testimony in these conditions supports the contention that admitting testimony on the battered woman's syndrome is not necessarily a panacea for battered women charged with spousal homicide.

Some investigators have suggested that expert witness testimony might be more useful outside the courtroom. For example, Blackman (1986) has suggested that expert witness

testimony on the battered woman's syndrome should be introduced during grand jury hearings to either convince the grand jury not to indict on the grounds that the defendant acted with impunity or to convince the grand jury that the charges should be dismissed because previous rights of the defendant have been violated (for example, see Eppler, 1985). Alternatively, if the case has gone to trial, Blackman (1986) suggested that an expert witness could be of some use in sentencing procedures.

One of the reasons expert witness testimony on the battered woman syndrome has been disallowed in the courtroom is because the reliability of the evidence supporting the theory behind the battered woman syndrome is considered questionable (for example see *State vs. Frye*; Brown, 1985; Leary, 1985; *Buhrle vs. State*; Brinegar-Cross, 1982). Numerous methodological difficulties with the research used to justify the battered woman's syndrome have been noted in the family violence literature in general, and the battered woman syndrome literature, in particular (see Faigman, 1986; Jackson, 1982; Loeske & Cahill, 1985; Walker, 1984). For example, serious concerns have been raised about the reliability of the measures used, the failure to employ appropriate control groups and representative samples, and the lack of clear, precise theoretical perspectives. With respect to the latter point, Faigman (1986) noted that expert witness testimony is often proffered in "extremely implausible cases" (p. 632), in part, because the terms and definitions used in theories of wife assault have not been operationalized. For

example, the term 'battered woman' is vague in its connotations and does not define chronicity or severity nor differentiate between physical, psychological or sexual abuse, or combinations thereof. Consequently, the need exists for more empirical investigations to support or refute various theoretical perspectives pertaining to wife assault. In addition, existing explanations for wife assault need to be refined to be of greater use to clinicians and researchers in the field of family violence.

The effect of gender on verdict outcome was observed in both Experiment 1 and 2. Females, regardless of the viewing condition, were more likely to find the defendant not guilty as compared to males. This trend was particularly noticeable prior to deliberation. Similar reports on the effects of gender have been observed in simulated trials depicting rape cases and child sexual assault cases (Gabora, 1990; Spanos et al., in press). It has been suggested that females may identify with the perceived victim (in this case, the battered woman), while males identify with the purported perpetrator (in this case, the deceased). This interpretation was supported in the present experiments by the finding that subjects who indicated they were familiar with victims of battering relationships were more likely to find the defendant not guilty. These findings also suggest, however, that ability to identify with the victim was more important than gender in influencing verdict outcome.

It was surprising to observe that analyses of jury composition were not statistically significant, given that gender

was found to strongly correlate with verdict outcome. The lack of significance observed could be a result of the methodology employed in these studies, in that juries were not systematically comprised of varying combinations of male and female mock jurors. Thus the variable, jury composition, was potentially weakened as a covariate as the range of values the covariate assumed was relatively restricted (Tabachnick & Fidell, 1983). In subsequent mock jury studies it would be interesting to vary jury composition systematically to determine whether or not verdict outcome would also be systematically influenced.

It is intuitively appealing to suggest that pretrial attitudes and beliefs will influence individual juror verdicts (Saks & Hasties, 1978). To some extent this notion has been supported empirically, although the strength of the relationship between attitude variables and verdict was weak. Spanos et al. (in press), for example, found that attitudes towards women and belief in rape myths predicted verdict outcome in a simulated rape trial. Similarly, Gabora, Spanos and Jaob (1990) observed that attitudes towards sexual abuse predicted pre-deliberation verdicts in a mock jury trial dealing with child sexual assault issues. The relationship between misconceptions regarding battering relationships and the propensity to acquit the defendant in the present investigations was more ambiguous. In part, the findings are inconclusive because the measure used to assess beliefs was not particularly reliable (i.e., AWAM scale). Consequently, it would be of some interest to refine the measure for use in future studies.

Feminist writers have suggested that the judicial response to battered women who kill an abusive partner should be one of acquittal. Understandably, a great deal of sympathy has been generated for battered women who resort to homicide. Solutions to the problem of domestic violence, however, are unlikely to be resolved by either providing for more lenient rules of evidence in cases of spousal homicide (i.e., expert witness testimony), alternatives to current defenses (i.e., psychological self defense) or through the provision of research findings that support political purposes but lack methodological rigor. There have been a number of attempts to prevent violence among intimate partners. To some extent, intervention strategies are closely associated with theoretical perspectives concerning domestic violence (for example, see Adams, 1988). Thus, psychological theorists emphasize the need for providing assertiveness training for battered women (Walker, 1984) and anger management training for violent men (Edleson & Grusznski, 1989). In addition, safe houses or shelters are viewed as a primary means of ensuring that woman have an option to remaining with a battering spouse (Martin, 1981; Walker, 1984). Sociological theorists have stressed the need to provide marital counselling for partners engaged in mutual violence and, on a more global scale, have emphasized the need to lessen the economic disparity between classes to prevent the occurrence of variables thought to be related to battering (Straus et. al., 1980). Finally, feminist theorists maintain that the existing social structure must be altered in order to provide

women with more economic and political power. It is only then, according to some feminists, that men who are violent will cease being violent toward intimate partners (Bograd, 1988; Dobash & Dobash, 1984).

Most researchers and clinicians in the family violence field agree that one of the first lines of defense women have against males who batter are the police. It will be recalled, for example, that battered women who have killed their spouse had previously contacted the police five times on average (Browne, 1987). Consequently, it could be argued that effective intervention at this stage could have prevented a homicide from occurring (e.g., Stubbing, 1990). Some support for this contention is evident from the investigation of Sherman and Berk (1984). These researchers found that arresting a batterer, as opposed to on the spot counselling or briefly removing him was the most effective strategy for reducing recidivism (see also Jaffe, Wolfe, Telford & Austin, 1986).

A second strategy that has been increasingly utilized to prevent males from battering female partners are protection orders that prohibit contact between spouses (Caringella-MacDonald, 1988). For example, a Maryland Joint Committee evaluating gender bias in the legal system noted that 4,500 protection orders were issued in the year 1988 (Maryland Joint Commission, 1989). Such protection orders, however, were only effective if the women were willing to demand that police enforced them, as officers often seemed unwilling, or unable to do

so (Horton, Kyriacos, Simondis & Simonidis, 1987; Eppler, 1985).

A final means of insuring women's safety comes from the judicial response to both battered women and batterers. There is some concern over the type of sentences males convicted of battering have received and it could be argued that more severe sentences would act as a deterrent to repeated abusive episodes. In cases where battered woman have killed their spouses, there is some debate as to whether or not the case should have even gone to trial (Gillespie, 1989). In fact, recently there has been a movement away from either charging, or incarcerating battered women who killed their spouse. For example, Governor Richard Celeste of Ohio granted clemency to 25 women in his state who had been convicted of killing or assaulting a male partner ("Battered Women", 1990). Similarly, Justice Bertha Wilson of the Supreme Court of Canada upheld the acquittal of a woman who pled self defense to a charge of second degree murder in the death of her abusive husband (MacQueen, March 3, 1991). Consequently, the growing intolerance of domestic violence, reflected by recent court decisions and police policy changes, suggests that both legal institutions and society in general are attempting to respond effectively, and to ultimately prevent, wife abuse.

References

- Adamowski, K. (Chairperson) (1987). Interdisciplinary Advisory Committee on Family Violence. Ottawa General Hospital.
- Adams, D. (1988). Treatment models of men who batter: A profeminist analysis. In K. Yllo & M. Bograd (Eds.), Feminist Perspectives on Wife Abuse. London: Sage Publications.
- Adams, D., Jackson, J. & Lauby, M. (1988). Family violence research: Aid or obstacle to the battered women's movement? Response to the Victimization of Women and Children, 11, 14 - 16.
- Aguirre, B. (1985). Why do they return? Abused wives in shelters. Social Work, 30, 350 - 354.
- Apadaca, L. & Fink, L. (1989). Criminal law: Pre-menstrual syndrome in the courts. In S. Johann & F. Osanka (Eds.), Representing Battered Women Who Kill. Springfield Illinois; Charles C. Thomas Pub.
- Averill, J. (1978). Anger. Nebraska Symposium on Motivation, 26, 1 - 81.
- Bagnall, J. Safety net for battered women. Montreal Gazette, July 15, 1989.
- Bailey, M. (1984). The fall of the half-way house: The Supreme Court of Canada in Gee, Brisson and Faid. Alberta Law Review, 22, 473 - 503.
- Baumann, M. (1989). Comment: Expert testimony on the battered wife syndrome: A question of admissibility in the prosecution of the battered wife for the killing of her husband. In S. Johann & F. Osanka (Eds.), Representing Battered Women Who Kill. Springfield Illinois; Charles C. Thomas Pub.
- Barron, S. (1991). Wife beaters should be "killed", speaker says. The Ottawa Citizen, May 13.

- Battered women behind bars. (1990, February). The Ottawa Citizen.
- Baumann, M. A. (1989). Comment: Expert testimony on the battered wife syndrome: A question of admissibility in the prosecution of the battered wife for the killing of her husband. In S. Johan & F. Osanka (Eds.), Representing Battered Women Who Kill. Springfield Illinois; Charles C. Thomas Pub.
- Baumann, M. A. (1983). Expert testimony on the battered wife syndrome. Saint Louis University Law Journal, 27, 407 - 435.
- Berk, R. & Newton, P. (1986). Does arrest really deter wife battery?. American Sociological Review, 50, 253 - 262.
- Berk, R., Fenstermaker-Berk, S., Newton, P. & Loseke, D. (1984). Cops on call: Summoning the police to the scene of spousal violence. Law & Society Review, 18, 482 - 499.
- Berk, R., Newton, P. & Fenstermaker Berk, S. (1984). What a difference a day makes: An empirical study of the impact of shelters for battered women. Journal of Marriage and the Family, 48, 481 - 490.
- Berliner, L. (1987). The frequency of interpersonal violence: What do the studies tell us? Journal of Interpersonal Violence, 2, 223 - 227.
- Berliner, L. (1990). Domestic violence: A humanist or feminist issue? Journal of Interpersonal Violence, 5, 128 - 129.
- Bern, E. (1985). Domestic violence: Some theoretical issues related to criminal behavior. The Journal of Applied Social Sciences, 9, 136 - 147.
- Black, H., Nolan, J. & Connolly, M. (1979). Black's Law Dictionary. St. Paul, Minn.: West Publishers.
- Blackman, J. (1986). Potential uses for expert witness testimony: Ideas toward the representation of battered

women who kill. Women's Right's Law Reporter, 2, 227 - 238.

Bogard, M. (1988). Feminist perspectives on wife abuse. In K. Yllo & M. Bograd (Eds.), Feminist Perspectives on Wife Abuse. London: Sage Publications.

Bograd, M. (1990). Why we need gender to understand human violence. Journal of Interpersonal Violence, 5, 132 - 135.

Boyle, C., Bertrand, M., Lacerte-Lamontagne, C. & Shamai, R. (1985). In J. Stuart Russell (Ed.) A Feminist Review of Criminal Law. Ottawa: Minister of Supply and Services Canada.

Brekke, N. & Borgida, E. (1988). Expert psychological testimony in rape trials: A social-cognitive analysis. Journal of Personality and Social Psychology, 55, 372 - 386.

Brinegar-Cross, M. (1982). The expert as educator: A proposed approach to the use of battered syndrome expert testimony. Vanderbilt Law Review, 35, 741 - 768.

Brodsky, D. (1987). Educating juries: The battered woman defence in Canada. Alberta Law Review, 25, 461 - 477.

Brown, C. (1985). Expert testimony on battered woman syndrome: It's admissibility in spousal homicide cases. Suffolk University Law Review, 19, 877 - 905.

Browne, A. (1987). When Battered Women Kill. London: Collier Macmillan Publishers.

Brozowski, R. (1990). Ottawa Police Force. Personal communique.

Burt, M. (1980). Cultural myths and supports for rape. Journal of Personality and Social Psychology, 38, 217 - 230.

- Burt, M. (1983). Justifying personal violence: A comparison of rapists and the general public. Victimology: An International Journal, 8, 131 - 150.
- Caplan, P. (1985). The Myth of Women's Masochism. New York: Signet Publishers.
- Caringella-MacDonald, S. (1988). The aftermath of legal reform for sexual assault, marital rape, and domestic violence victims. Journal of Interpersonal Violence, 3, 174 - 189.
- Chase, B. (1989). A battered woman who killed her husband. In S. Johann & F. Osanka (Eds.), Representing Battered Women Who Kill. Springfield Illinois; Charles C. Thomas Pub.
- Chimbos, P. (1978). Marital Violence: A Study of Interpersonal Homicide. San Fransico: R. and E. Research Associates Inc.
- Cole, S. (1989). Pornography and the Sex Crisis. Toronto: Amanita Enterprises.
- Coley, S. & Beckett, JK. (1988). Black battered women: A review of empirical literature. Journal of Counseling and Development, 66, 266 - 270.
- Dahl, P. (1985). Legal and psychiatric concepts and the use of psychiatric evidence in criminal trials. California Law Review, 73, 411 - 441.
- Daniel, A. & Holcomb, W. (1985). A comparison between men charged with domestic and nondomestic homicide. Bulletin of the American Academy of Psychiatry and the Law, 13, 233 - 241.
- Davis, L. (1984). Beliefs of service providers about abused women and abusing men. Social Work, 29, 243 - 249.
- Dickstein, L. (1988). Spouse abuse and other domestic violence. Psychiatric Clinics of North America, 11, 611 - 628.

- Dobash, R. E. & Dobash, R. P. (1979). Violence Against Wives. New York: MacMillian Free Press.
- Dobash, R. E. & Dobash, R. P. (1984). The nature and antecedents of violent events. British Journal of Criminology, 24, 269 - 288.
- Donner-Walter, P. (1982). Expert testimony and battered woman. The Journal of Legal Medicine, 3, 267 - 294.
- Dutton, D. & Painter, S. (1981). Traumatic bonding: The development of emotional attachments in battered women and other relationships of intermittent abuse. Victimology: An International Journal, 6, 139 - 155.
- Dutton, D. (1985). The criminal justice system response to wife assault (Report number 1984-26). Ottawa: Solicitor General of Canada.
- Dutton, D. (1988). The Domestic Assault of Women. Boston: Allyn and Bacon, Inc.
- Edleson, J. & Grunznski, R. (1988). Treating men who batter: Four years of outcome data from the domestic abuse project. Journal of Social Service Research, 12, 3 - 19.
- Edwards, C. (1987). Public opinion on domestic violence: A review of the New Jersey survey. Response to the Victimization of Women and Children, 10, 6 - 9.
- Edwards, S. (1986). Neither bad nor mad: The female violent offender reassessed. Women's Studies International Forum, 9, 79 - 87.
- Elk, R. & Johnson, C. (1989). Police arrest in domestic homicide. Response to the Victimization of Women and Children, 12, 7 - 13.

- Eppler, A. (1985). Battered woman and the equal protection clause: Will the constitution help them when the police won't? Yale Law Journal, 95, 788 - 442.
- Erez, E. (1986). Intimacy, violence, and the police. Human Relations, 39, 265 - 281.
- Ewing, C. & Aubrey, M. (1987). Battered women and public opinion: Some realities about the myths. Journal of Family Violence, 2, 257 - 264.
- Ewing, C. P. (1987). Battered Women Who Kill. Toronto: Lexington Books.
- Faigman, D. (1986). The battered woman syndrome and self-defense: A legal and empirical dissent. Virginia Law Review, 72, 619 - 647.
- Ferraro, K. & Johnson, J. (1983). How women experience battering: The process of victimization. Social Problems, 30, 325 - 339.
- Ferraro, K. (1989). Policing battered women. Social Problems, 36, 61 - 73.
- Fields, M. (1978). National crime survey. Victimology, 2, 632 - 647.
- Fingarette, H. (1972). The Meaning of Criminal Insanity. Berkeley: University of California Press.
- Follingstad, D., Polek, D., Hause, E., Deaton, L., Bulger, M. & Conway, Z. (1989). Factors predicting verdicts in cases where battered women kill their husbands. Law and Human Behavior, 13, 253 - 269.
- Gabora, N., Spanos, N. & Joab, T. (in press). The effects of complantant age and expert testimony in a simulated child sexual assault trial. Law and Human Behavior.

- Galliano, G. & Nichols, M. (1988). Mental health professionals as expert witness. Journal of Interpersonal Violence, 3, 29 - 41.
- Gayford, J. (1975). Wife battering: a preliminary survey of 100 cases. British Medical Journal, 1, 194 - 197.
- Geller, J. & Walsh, J. (1978). A treatment model for the abused spouse. Victimology, 2, 627 - 632.
- Gelles, R. (1987). Family Violence. London: Sage Publications.
- Gelles, R. J. & Straus, M. (1988). Intimate Violence. New York: Simon and Shuster.
- Giles-Sims (J. (1983). Wife Battering: A Systems Theory Approach. New York: The Guilford Press.
- Gillespie, C. (1989). Justifiable Homicide. Columbus: Ohio State University Press.
- Gilligan, C. (1982). In a Different Voice. Cambridge: Harvard University Press.
- Goetting, A. (1988). Patterns of homicide among women. Journal of Interpersonal Violence, 3, 3 - 19.
- Goetting, A. (1989). Patterns of marital homicide: A comparison of husbands and wives. Journal of Comparative Family Studies, 20, 341 - 354.
- Gondolf, E. & Fisher, E. (1988). Battered Women as Survivors. Toronto: Lexington Books.
- Gondolf, E. (1988). A study of the debate: A review essay on woman battering. Response to the Victimization of Women and Children, 11, 3 - 8.

- Gorney, B. (1989). Domestic violence and chemical dependency: Dual problems, dual interventions. Journal of Psychoactive Drugs, 21, 229 - 238.
- Greene, E., Raitz, A. & Lindblad, H. (1989). Juror's knowledge of battered women. Journal of Family Violence, 4, 105 - 125.
- Greenwald, A., Tomkins, A., Kenning, M. & Zavodny, D. (1990). Psychological self-defense jury instructions: Influence on verdicts for battered women defendants. Behavioral Sciences and the Law, 8, 171 - 180.
- Habib, M. (1991). Violence against men isn't trivial group says. The Ottawa Citizen, January 22.
- Hermann, D. (1983). The Insanity Defense. Springfield Ill: Charles C. Thomas Pub.
- Homicide in Canada, 1988: A Statistical Perspective. (1989). Ottawa: Minister of Supply and Services Canada.
- Horton, A., Simonidis, K. & Simonidis, L. (1987). Legal remedies for spousal abuse: Victim characteristics, expectations, and satisfaction. Journal of Family Violence, 2, 265 - 279.
- Howell, M. & Pugliesi, K. (1988). Husbands who harm: Predicting spousal violence by men. Journal of Family Violence, 3, 15 - 27.
- Humphrey, J. & Palmer, S. (1982). Stressful life events and criminal homicide offender-victim relationships. Victimology: An International Journal, 5, 115 - 119.
- Jackson, S. & Rushton, P. (1982). Victims and villains: Images of women in accounts of family violence. Women's Studies International Forum, 5, 17 - 29.
- Jaffe, P., Wolfe, D., Telford, A. & Austin, G. (1986). The impact of police charges in incidents of wife assault. Journal of Family Violence, 1, 37 - 49.
- Johnson, H. (1986). Women and Crime in Canada. Solicitor General of Canada; Communications Group.

- Jolin, A. (1983). Domestic violence legislation: An impact assessment. Journal of Police Science and Administration, 11, 451 - 456.
- Jones, A. (1980). Women Who Kill. New York: Holt, Rinehart and Winston.
- Kalichman, S. (1988). MMPI profiles of women and men convicted of domestic homicide. Journal of Clinical Psychology, 44, 847 - 853.
- Kasian, M. & Painter, S. (1991). Abuse in premarital relationships: Antecedents, correlates and consequences. Manuscript submitted for publication.
- Kenny, D. & Judd, C. (1986). Consequences of violating the independence assumptions in analysis of variance. Psychological Bulletin, 99, 422 - 431.
- Kieviet, T. (1978). The battered wife syndrome: A potential defense to a homicide charge. Pepperdine Law Review, 6, 213 - 229.
- Kimbrough, M. & Lauder, A. (1987). Battered woman and justice: The woman's self-help center of St. Louis. Response to the Victimization of Women and Children, 10, 17 - 19.
- Kromsky, D. & Cutler, B. (1989). The battered women syndrome: A matter of common sense? Forensic Reports, 2, 173 - 186.
- Kuhl, A. (1986). Implications of justifiable homicide verdicts for battered women. Response to the Victimization of Women and Children, 9, 6 - 10.
- Kurtz, D. & Stark, E. (1988). Not-so-benign neglect: The medical response to battering. In K. Yllo & M. Bograd (Eds.), Feminist Perspectives on Wife Abuse. London: Sage Publications.

- Leary, M. (1985). A woman, a horse, and a hickory tree: The development of expert testimony on the battered woman syndrome in homicide cases. UMKC Law Review, 53, 387 - 410.
- Long, G. & McNamara, J. (1989). Paradoxical punishment as it relates to the battered woman syndrome. Behavior Modification, 13, 192 - 205.
- Loseke, D. & Cahill, S. (1984). The social construction of deviance: Experts on battered woman. Social Problems, 31, 298 - 310.
- Lu'l, J., Mulac, A. & Rosen, S. (1983). Feminism as a predictor of mass media use. Sex Roles, 9, 165 - 183.
- MacDonald, M. & Gould, A. (1987). The Violent Years of Maggie MacDonald. Toronto: McClelland-Bantam Publishers.
- MacLeod, L. (1980). Wife Battering in Canada: The Vicious Circle. Hull Quebec: Minister of Supplies and Services Canada.
- MacLeod, L. (1987). Battered but not beaten: Preventing wife battering in Canada. Ottawa: Canadian Advisory Council on the Status of Women.
- MacQueen, K. (1991). Justifiable homicide: A battered wife who kills her husband finds compassion in the British Columbia courts. The Ottawa Citizen, March 13.
- Maier, S. & Seligman, M. (1976). Learned helplessness: Theory and evidence. Journal of Experimental Psychology, 105, 3 - 46.
- Makepeace, J. (1981). Courtship violence among college students. Family Relations, 30, 97 - 102.

- Malamuth, N. & Briere, J. (1986). Sexual violence in the media: Indirect effects on aggression against women. Journal of Social Issues, 42, 75 - 92.
- Mann, C. R. (1989). Getting even? Women who kill in domestic encounters. In S. Johann & F. Osanka (Eds.), Representing Battered Women Who Kill. Springfield Illinois; Charles C. Thomas Pub.
- Martin, D. (1981). Battered Wives. San Fransisco: Volcano Press, Inc.
- Maryland Special joint committee on gender bias in the courts (1989). Domestic violence and the courts. Response to the Victimization of Women and Children, 12, 3 - 7.
- McEachern, A. (1985). On self-defence. The Advocate, 43, 305 - 318.
- McGillivray, A. (1987). Battered women: Definition, models and prosecutorial policy. Canadian Journal of Family Law, 6, 15 - 45.
- McKinnie, K. (1981). The use of expert testimony in the defense of battered women. University of Colorado Law Review, 52, 587 - 599.
- McLeod, M. (1983). Victim noncooperation in the prosecution of domestic assault. Criminology, 21, 395 - 416.
- McNeely, R. & Robinson-Simpson, G. (1987). The truth about domestic violence: A falsely framed issue. Social Work, 32, 485 - 489.
- McNeely, R. (1990). Domestic violence is a human issue. Journal of Interpersonal Violence, 5, 129 - 132.
- Morse, S. (1990). The misbegotten marriage of soft psychology and bad law. Law and Human Behavior, 14, 595 - 618.

- O'Brien, L. (1982). Excessive self defense: A need for legislation. Criminal Law Quarterly, 25, 441 - 457.
- Okun, L. (1986). Women Abuse: Facts Replacing Myths. New York: State University of New York Press.
- Oppenlander, N. (1982). Coping or copping out: Police service delivery in domestic disputes. Criminology, 20, 449 - 465.
- Pagelow, M. (1981). Woman-Battering: Victims and Their Experiences. London: Sage Publications.
- Parker, R. & Toth, A. (1990). Family, intimacy, and homicide: A macro-social approach. Violence and Victims, 5, 195 - 210.
- Pizzey, E. (1974). Scream Quietly or the Neighbors Will Hear. London: IF Books.
- Poulson, R. (1990). Mock juror attribution of criminal responsibility: Effects of race and the guilty but mentally ill (GBMI) verdict option. Journal of Applied Social Psychology, 20, 1596 - 1611.
- Ptacek, J. (1988). Why do men batter their wives? In K. Yllo & M. Bograd (Eds.), Feminist Perspectives on Wife Abuse. London: Sage Publications.
- Roberts, A. (1987). Psychosocial characteristics of batterers: A study of 234 men charged with domestic violent offences. Journal of Family Violence, 2, 81 - 93.
- Rogers, L. (1988). Theories of deviance in explanations of spouse abuse. Response to the Victimization of Women and Children, 11, 10 - 14.
- Rollins, B. & Oheneba-Sakyi, Y. (1990). Physical violence in Utah households. Journal of Family Violence, 5, 301 - 315.
- Rosen, C. (1986). The excuse of self-defense: Correcting a historical accident on behalf of battered woman who kill. The American University Law Review, 36, 11 - 56.

- Rosewater, L. B. (1988). Battered or schizophrenic? Psychological tests can't tell. In K. Yllo & M. Bograd (Eds.), Feminist Perspectives on Wife Abuse. London: Sage Publications.
- Roy, M. (1977). A current survey of 150 cases. In M. Roy (Ed.), Battered Woman. New York: Van Nostrand Reinhold Company.
- Sagawa, S. (1987). A hard case for feminists: *People v. Goetz*. Harvard Women's Law Journal, 10, 253 - 273.
- Saks, M. & Hasties, R. (1978). Social Psychology in Court. New York: Van Nostrand Reinhold Company.
- Saltzman, L., Mercy, J., Rosenberg, M., Elsea, W., Napper, G., Sikes, R., Waxweiler, R. (1990). Magnitude and patterns of family violence and intimate assault in Atlanta, Georgia, 1984. Violence and Victims, 5, 1 - 15.
- Saunders, D. (1986). When battered women use violence: Husband abuse or self-defence? Victims and Violence, 1, 47 - 60.
- Saunders, D. (1988). Other "truths" about domestic violence: A reply to McNeely and Robinson-Simpson. Social Work, 33, 179 - 183.
- Schneider, E. (1980). Equal rights to trial for women: Sex bias in the law of self-defense. Harvard Civil Rights, 15, 623 - 647.
- Schneider, E. (1989). Describing and changing: Women's self-defense work and the problem of expert testimony on battering. In S. Johann & F. Osanka (Eds.), Representing Battered Women Who Kill. Springfield Illinois; Charles C. Thomas Pub.
- Schneider, E., Jordan, S. & Arguedas, C. (1981). Representation of women who defend themselves in response to physical

or sexual assault. In E. Bochnak (Ed.), Women's Self-Defense Cases. Virginia: The Michie Co.

Schuller, R. (1990). The impact of "social framework" testimony on jury decision processes: Battered woman syndrome evidence. Paper presented at the American Psychology Association meeting, Boston.

Sherman, C. & Berk, P. (1984). The specific deterrent effects of arrest for domestic assault. American Sociological Review, 49, 261 - 272.

Shupe, A., Stacey, L. & Hazelwood, L. (1987). Violent Men, Violent Couples. Massachusetts: Lexington Books.

Snell, J., Rosenwald, R. & Robey, A. (1964). The wife-beaters wife. Archives of General Psychiatry, 11, 107 - 112.

Spanos, N., Dubreuil, S. & Gwynn, M. (in press). The effects of expert testimony concerning rape on the verdicts and beliefs of mock jurors. Imagination, Cognitions and Personality.

Stark, R. & McEvoy, J. (1970). Middle-class violence. Psychology Today, 54, 110 - 112.

Starke, E., Flitcraft, A. & Frazier, W. (1979). Medicine and patriarchal violence: The social construction of a private event. International Journal of Health Services, 9, 461 - 493.

Steinmetz, S. (1977). The Cycle of Violence: Assertive, Aggressive, and Abusive Family Interaction. New York: Praeger.

Stets, J. & Priog-Good, M. (1987). Violence in dating relationships. Social Psychology Quarterly, 50, 237 - 246.

Straus, M., Gelles, R. & Steinmetz, S. (1980). Behind Closed Doors: Violence in the American Family. New York: Anchor/Doubleday.

- Strube, M. J. & Barbour, L. S. (1983). The decision to leave an abusive relationship: Economic dependence and psychological commitment. Journal of Marriage and Family, 45, 785 - 793.
- Stubbing, E. (1990). Police who think family homicide is preventable are pointing the way. Response to the Victimization of Women and Children, 13, 8.
- Tabachnick, B. & Fidell, L. (1983). Using Multivariate Statistics. New York: Harper & Row Publishers.
- Taub, N. (1983). Adult domestic violence: The law's response. Victimology: An International Journal, 8, 152 - 171.
- Thar, A. (1982). The admissibility of expert testimony on the battered wife syndrome: An evidentiary analysis. Northwestern University Law Review, 77, 348 - 373.
- Thyfaut, R. (1984). Self-defense: Battered woman syndrome on trial. California Western Law Review, 20, 485 - 510.
- Tolman, R. (1989). The development and validation of a non-physical abuse scale. Violence and Victims, 4, 159 - 177.
- Truninger, E. (1971). Marital violence: Legal solutions. The Hastings Law Journal, 23, 259 - 276.
- Walker, L. E. (1979). The Battered Woman. New York: Harper & Row Publishers.
- Walker, L. E. (1984). The Battered Woman Syndrome. New York: Springer Publishing Co.
- Wasileski, M., Callaghan-Chaffee, M. & Chaffee, R. (1982). Spousal violence in military homes: An initial survey. Military Medicine, 147, 761 - 765.

- Wilkes-Kaas, C. (1982). The admissibility of expert testimony on the battered woman syndrome in support of a claim of self-defense. Connecticut Law Review, 15, 121 - 138.
- Williams, J. (1974). Psychology of Women: Behavior in a Biosocial Context. New York: W. W. Norton & Co.
- Winer, B. (1971). Statistical Principles in Experimental Designs. New York: McGraw-Hill.
- Wolfgang, M. (1975). Patterns in Criminal Homicide. Montclair N.J.: Patterson Smith.
- Worden, R. & Pollitz, A. (1984). Police arrest in domestic disturbances: A further look. Law & Society Review, 18, 105 - 119.
- Yllo, K. (1988). Political and methodological debates in wife abuse research. In K. Yllo & M. Bograd (Eds.), Feminist Perspectives on Wife Abuse. London: Sage Publications.

Appendix A - Measures for Experiment 1

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Mass-Testing Questionnaire Consent Form

The booklet which you are about to complete consists of a number of questionnaires and scales which are needed as 'premeasures' for various psychological studies being conducted in the Psychology Department.

Before beginning, it is important that you realize that your participation is entirely voluntary, and that you may decline to answer any question. However, you should also realize that your answers to these questionnaires are needed before you can be invited to participate in these studies.

In addition, your responses to the questions will be confidential, and will be used for research purposes only.

Once you have read this consent form, please **PRINT** your name, student number, etc., clearly so that we can contact you regarding your willingness to participate in upcoming studies in the Psychology Department.

Thank you

Professor: _____

Name (**PRINT**): _____

Sex: Male/Female (circle)

Age: _____ years

Is english your first language? Yes/No (circle)

Telephone: _____

Best time to call: _____

AWAM

Please circle the number that best corresponds to how you feel about the statements listed below.

1. Battered woman constitute only a small percentage of the population.

1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

2. Battered women are masochistic.

1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

3. Battered women are crazy.

1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

4. Middleclass women do not get battered as frequently or as violently as do poorer women.

1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

5. Minority group women are battered more frequently than whites.

1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

6. Individuals with strong religious beliefs are not violent.

1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

7. Battered women are uneducated and have few job skills.

1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

8. Batterers are violent in all their relationships.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
9. Batterers are unsuccessful and lack resources to cope with the world.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
10. Drinking causes battering behavior.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
11. Batterers are psychopathic personalities.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
12. Police can protect battered women.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
13. The batterer is not a loving partner.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
14. A wife batterer also beats his children.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
15. Once a battered woman, always a battered woman.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
16. Once a batterer, always a batterer.						
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

17. Long-standing battering relationships can change for the better.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
18. Battered women often provoke their partner to be violent by nagging.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
19. Battered women can always leave home.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
20. Batterers will cease their violence when they get married.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
21. Children need their father even if he is violent.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
22. Some women enjoy being shown who's boss.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
23. Sometimes a man has to hit a woman.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
24. A woman could prevent battering if she really wanted to.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree
-
25. If children don't see violence between their parents, it doesn't affect them.
1	2	3	4	5	6	7
strongly disagree			agree somewhat			strongly agree

Informed Consent Form

In today's session you will be shown a videotape of a trial which will take approximately 55 minutes. Afterwards, you will be asked to participate as a member of a jury and will be expected to arrive at a unanimous decision as to the guilt or innocence of a defendant. The entire process will take anywhere from 1 hour 30 minutes, to 3 hours. You will receive credits towards psychology 49.100 accordingly (Note: Each hour is worth approximately 1 credit). You are also required to pay strict attention to the information presented.

I have read the consent form and agree to participate in this experiment with the understanding that I can withdraw at anytime and for whatever reason.

Participant

Principle Investigator

Date

Name: _____

Private Belief

The scale below assesses your private and personal belief about whether you think Mrs. Richards is guilty or not guilty of killing her husband. This scale is not asking you whether you believe the evidence is sufficient to find Judy Richards guilty in a court of law. Instead, it is simply asking you for your personal opinion concerning whether or not Judy Richards is legally culpable in the death of her husband.

-5	-4	-3	-2	-1	0	1	2	3	4	5
positive that she is not guilty					undecided		positive that she is guilty			

3

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

Name: _____

How credible were each of the trial participants on a scale of 1 to 5?

	<u>not credible</u>			<u>very credible</u>	
Judge	1	2	3	4	5
Prosecutor	1	2	3	4	5
Defense	1	2	3	4	5
Arresting Officer	1	2	3	4	5
Coroner	1	2	3	4	5
Office Friend	1	2	3	4	5
Neighbor/Officer	1	2	3	4	5
Medical Doctor	1	2	3	4	5
Judy Richards	1	2	3	4	5
Expert Witness	1	2	3	4	5

Duties of the Foreperson

(foreperson should read this aloud to the jury)

Before beginning any deliberations I, as foreperson, will tally the jury for their opinions concerning the guilt or innocence of the defendant. I will do this by asking all of the jurors to indicate on their ballot if they believe the defendant to be guilty or not guilty. I as the foreperson will also participate in this vote by indicating on my ballot if I think that the defendant is guilty or not guilty.

Afterwards, the deliberations will begin and will continue until we reach a unanimous decision concerning the guilt or innocence of the defendant. At various times during the deliberations, I will tally the jury for their opinions concerning the guilt or the innocence of the defendant. We can take as many tallies as we need in order to reach a unanimous decision.

Name:_____

Juror Number:_____

Tally Number:_____

On the basis of the evidence, my vote is that

Mrs. Richards is **Guilty**_____

Mrs. Richards is **Not Guilty**_____

In deciding your juror number, count clockwise from the
foreperson

1

6

2

5

3

4

Debriefing for Jury Study

Today you took part in a jury simulation trial and were asked to come to a decision about the culpability of a woman who killed her husband. You viewed a videotape in which the woman entered a plea of automatism or self-defense. In addition, some of you heard testimony from an expert witness on the battered woman syndrome.

We are investigating factors that might influence the outcome of verdicts in a trial and, as such, varied the type of information you received. Attached to this sheet you will find a list of contact numbers for a variety of services. If you, or anybody you knows, needs to enlist the advice or the assistance of any of the services listed, please don't hesitate to contact them.

Thank you for your time. If you have any questions, please feel free to ask the experimenter.

Contact Sheet

Police Phone Numbers**Emergency 911**

Ottawa 230 - 6211

Nepean 829 - 2211

Kanata 592 - 6061

Gloucester 822 - 2961

O.P.P. 828 - 9171

Victim Assistance Program

236 - 0311 ext:367

829 - 2211 ext:242

822 - 2961 ext:223

24 hour Distress Lines

Distress Center 238 - 3311

Salvation Army Crisis Ctr. 236 - 7977

Rape Crisis Line 238 - 6666

Sexual Assault Center 234 - 2266

A.A. 523 - 2116

Individual, Family Counselling

Catholic Family Center

200 Isabelle St., 4 floor

Ottawa 233 - 8478

sliding pay scale

French and English

Family Service Center

119 Ross St., 2 floor

Ottawa 725 - 3601

sliding pay scale

English

Divorce and Custody Mediation

Catholic Family Services 233 - 8478

Family Service Center 725 - 3601

Family Court Clinic 236 - 3893

Family and Divorce Mediation 233 - 4926

Legal Help

Community Legal Services 238 - 7008

Legal assistance for low income families with problems related to housing; the landlord and tenants act.

Legal Aid

238 - 7931

Society

legal assistance to low income individuals
who need help with criminal matters

University of Ottawa

Canadian Legal Aid

564 - 5855

Ottawa Law Information Line

236 - 3893

Referral to appropriate services

Help for Victims of Sexual Abuse and their Families

Family Service Center: Lorna Erikson 725 - 3601
 Pauline Barrett

The Sexual Assault Support Center 234 - 2266

Children's Hospital for Eastern Ontario
 Jim McGregor 737 - 2360

Children's Aid Society 737 - 1700

Services for Battered Women

If you need to talk:

English: Gloucester Services for Abused Women 745 - 4818
 Interval House 234 - 5181
 Lanark County Interval House 1 - 800 - 267 - 7946 (free)
 French: Services de Gloucester 745 - 3665
 La Presence 233 - 8297
 Maison d' Amitie 234 - 7204

Temporary Refuges for Women and Children

Interval House 234 5181
 Lanark County 1 - 800 - 267 - 7946 (toll free)
 Maison d' Amitie 234 - 7204
 La Presence 233 - 8297

Counselling Services

Pinecrest Queensway Community Center 820 - 4922
 Dalhousie Community Center 238 - 8210
 Ottawa S.E. Community Center 521 - 1023
 Lower Town Community Center 238 - 1784
 Vanier Community Center 744 - 2592
 Gloucester Community Center 741 - 6025
 Overbrook-Forbes Community 745 - 0073

Counselling Services for Men

New Directions 233 - 8478

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Board Notice for Recruitment of Subjects.

We would like you to participate in a jury simulation trial. You will be required to watch a 55 minute videotape of a murder trial and afterwards deliberate with other jurors on a verdict for which you will receive 1.5- 3 credits (depending on the length of the deliberation process) towards your participation credits in Psychology 49:100. If you are interested, please list your student number and phone number below and we will contact you as to a time and date. The tentative times for sessions are as follows:

<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>
93-123	93-123	93- 123	93- 123	13- 43
	123-33	123- 33	93 -123	
63- 93	33-63			

Thank you for your consideration.

Juror Number: _____

1. Are you aware of any recent decisions in Canadian law courts that resulted in a battered woman being found not guilty for killing her husband/ boyfriend ?
(Please check either yes or no).

Yes_____ No_____

2. Have you, or anybody you know personally, ever been the victim of a battering relationship?

Yes_____ No_____

3. Please list, as briefly as possible, the reasons for your personal decision in this case.

Debriefing for Jury Study

Today you took part in a jury simulation trial and were asked to come to a decision regarding the culpability of a woman who killed her husband. You viewed a videotape in which the woman entered a plea of automatism, self-defense or psychological self-defense. In addition, testimony was presented to suggest that the defendant had either been severely abused, or moderately abused by her husband prior to his death.

We are investigating factors that might influence the outcome of verdicts in a trial and, as such, varied the type of information you received. Attached to this sheet you will find a list of contact numbers for a variety of services. If you, or anybody you knows, needs to enlist the advice or the assistance of any of the services listed, please don't hesitate to contact them.

Thank you for your time. If you have any questions, please feel free to ask the experimenter.

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Appendix C (i): Summary Table for ANCOVA of Final Jury Verdicts By Expert and Defense

Source	Sum of Squares	D.F.	Mean Squares	F Statistic	P Value
Ratio	.07	1	.07	.10	.76
Expert	.55	1	.55	.81	.37
Defense	.23	1	.23	.34	.56
Expert x Defense	.02	1	.02	.03	.85
Explained	.89	4	.22	.33	.86
Residual	23.89	35	.68		
Total	24.77	39	.63		

**Appendix C (ii): Summary Table for ANOVA of Final Jury Verdict
by Expert and Defense**

Source	Sum of Squares	D.F.	Mean Square	F Statistic	P Value
Main Effects					
Expert	.22	1	.22	.29	.59
Defense	1.22	1	1.22	1.60	.21
2 -Way Interactions					
Expert x Defense	.03	1	.03	.03	.86
Residual	27.50	36	.76		
Total	28.97	39	5.82		

**Appendix C (iii): Summary Table for ANOVA of Juror Verdicts by
Defense,
Expert, Gender and Nest**

<u>Source</u>	<u>Sum of Squares</u>	<u>D.F.</u>	<u>Mean Square</u>	<u>F Statistic</u>	<u>P Value</u>
<u>Between</u>					
Plea	4.03	1	4.03	17.44	.01
Expert	.01	1	.01	.01	.90
Gender	3.49	1	3.49	15.12	.01
Nest	8.19	9	.91	3.93	.01
Plea x Expert	.22	1	.22	.97	.32
Plea x Gender	.32	1	.32	1.40	.24
Plea x Nest	10.44	9	1.16	5.02	.01
Expert x Gender	.22	1	.22	.99	.32
Expert x Nest	8.04	9	.89	3.87	.01
Gender x Nest	.77	9	.08	.37	.95
Plea x Exp x Gender	.11	1	.11	.50	.48
Plea x Exp x Nest	3.50	9	.39	1.69	.09
Plea x Gender x Nest	2.67	9	.29	1.29	.25
Exp x Gender x Nest	2.42	9	.27	1.16	.32
Plea x Exp x Gender x Nest	3.54	9	.39	1.70	.09
ERROR	36.28	157	23		
<u>Within</u>					
Verdicts	.08	1	.08	1.09	.30
Plea x Verdicts	.13	1	.13	1.65	.20
Exp x Verdicts	.03	1	.03	.42	.52
Gender x Verdicts	1.14	1	1.14	14.51	.01
Nest x Verdicts	1.22	9	.14	1.73	.08
Plea x Exp x Verdicts	.01	1	.01	.04	.83
Plea x Gender x Verdicts	.01	1	.01	.06	.81
Plea x Nest x Verdicts	1.48	9	.16	2.10	.03
Exp x Gender x Verdicts	.34	1	.34	4.36	.04
Exp x Nest x Verdicts	2.55	9	.28	3.61	.01
Gender x Nest x Verdicts	.55	9	.06	.79	.63
Plea x Expert x Gender x Verdicts	.12	1	.12	1.65	.20

Plea x Expert x Nest x Verdicts	2.13	9	.24	3.02	.01
Plea x Gender x Nest x Verdicts	.53	9	.06	.75	.66
Exp x Gender x Nest x Verdicts	.67	9	.07	.95	.48
Plea x Exp x Gender x Nest x Verdicts	.68	9	.08	.97	.47
ERROR	12.32	157	08		

**Appendix C (iv): Summary Table for ANOVA of Private Beliefs by
Defense,
Expert, Gender and Nest**

<u>Source</u>	<u>Sum of Squares</u>	<u>D.F.</u>	<u>Mean Square</u>	<u>F Statistic</u>	<u>P Value</u>
Between					
Defense	65.30	1	65.30	3.01	.08
Expert	26.60	1	26.60	1.23	.27
Gender	673.10	1	673.10	31.06	.01
Nest	602.80	9	66.90	3.09	.01
Defense x Expert	22.54	1	22.54	1.04	.31
Defense x Gender	29.22	1	29.22	1.35	.25
Defense x Nest	642.00	9	71.33	3.29	.01
Expert x Gender	3.33	1	3.33	.15	.69
Expert x Nest	210.06	9	23.34	1.07	.38
Gender x Nest	193.04	9	21.44	.99	.45
Defense x Exp x Gender	.44	1	.44	.02	.88
Defense x Exp x Nest	204.21	9	22.69	1.04	.40
Defense x Gender x Nest	406.24	9	45.13	2.08	.03
Exp x Gender x Nest	487.30	9	54.14	2.49	.01
Defense x Expert x Gender x Nest	399.99	9	44.44	2.05	.04
ERROR	3380.24	156	21.66		
Within					
Beliefs	32.74	3	10.91	2.51	.06
Defense x Beliefs	13.44	3	4.48	1.03	.38
Exp x Beliefs	32.27	3	10.76	2.48	.06
Gender x Beliefs	31.59	3	10.52	2.42	.06
Nest x Beliefs	223.59	27	8.28	1.91	.01
Defense x Exp x Beliefs	.53	3	.18	.04	.99
Def x Gender x Beliefs	8.26	3	2.75	.63	.59
Def x Nest x Beliefs	191.04	27	7.07	1.63	.02
Exp x Gender x Beliefs	19.46	3	6.49	1.49	.21
Exp x Nest x Beliefs	244.81	27	9.06	2.08	.01
Gender x Nest x Beliefs	84.85	27	3.14	.72	.84
Defense x Expert x Gender x Beliefs	4.12	3	1.37	.31	.81
Defense x Expert x Nest x Beliefs	137.69	27	5.09	1.17	.25

Defense x Gender x Nest x Beliefs	85.92	27	3.18	.73	.84
Defense x Gender x Nest x Beliefs	137.45	27	5.09	1.17	.25
Defense x Exp x Gender x Nest x Beliefs	83.34	27	3.09	.71	.85
ERROR	2031.88	468	4.34		

Appendix C (v): Summary Table for ANOVA of Defendant Credibility Ratings by Plea, Expert and Gender for Experiment 1.

Source	Sum of Squares	DF.	Mean Square	F Statistic	P Value
Plea	11.37	1	11.37	11.26	.01*
Expert	.15	1	.14	.14	.70
Gender	2.17	1	2.17	2.15	.14
Plea x Expert	.70	1	.70	.69	.41
Plea x Gender	2.57	1	2.57	2.55	.11
Gender x Expert	.07	1	.07	.07	.79
Plea x Gender x Expert	.51	1	.51	.51	.47
Residual	223.04	221	1.01		
Total	240.80	228	1.06		

Appendix C (vi): Summary Table for ANOVA of AWAM Scores by Gender,

<u>Source</u>	Expert and Plea		<u>Mean</u> <u>Square</u>	<u>F Statistic</u>	<u>P Value</u>
	<u>Sum of</u> <u>Squares</u>	<u>D.F.</u>			
<u>Between</u>					
Gender	1749.64	1	1749.64	9.49	.01*
Expert	151.18	1	151.18	.82	.37
Plea	281.13	1	281.13	1.52	.22
Gender x Expert	45.12	1	45.12	.24	.62
Gender x Plea	777.63	1	777.63	4.22	.04*
Expert x Plea	4.90	1	4.90	.03	.87
Gender x Expert x Plea	160.32	1	160.32	.87	.35
ERROR	42232.0	229	184.42		
<u>Within</u>					
AWAM	1694.40	1	1694.40	20.84	.01*
Gender x AWAM	2.44	1	2.44	.03	.86
Expert x AWAM	39.20	1	39.20	.48	.49
Plea x AWAM	24.20	1	24.20	.30	.59
Gender x Expert x AWAM	9.14	1	9.14	.11	.74
Gender x Plea x AWAM	1.95	1	1.95	.02	.88
Expert x Plea x AWAM	60.62	1	60.62	.75	.39
Gender x Expert x Plea x AWAM	.29	1	.29	.01	.95
ERROR	18619.3	229	81.31		

**Appendix C: Summary Table of Pearson Product Moment Co-efficients
for Females in Experiment 1.**

Co-efficients are presented in the upper portion of the matrix while corresponding n's are providing in the off diagonals in the lower portion of the matrix.

	Pre AWAM	Post AWAM	Private Beliefs	Pre- Deliberation	Post- Deliberation	Defendant Credibility
Pre AWAM	1.00	.35**	.21*	.22*	.07	-.24*
Post AWAM	n=103	1.00	.01	.01	.07	-.02
Private Beliefs	n=103	n=103	1.00	.85**	.63**	-.45**
Pre- Deliberation	n=103	n=103	n=103	1.00	.58**	-.41**
Post- Deliberation	n=103	n=103	n=103	n=103	1.00	-.26**
Defendant Credibility	n=97	n=97	n=97	n=97	n=97	1.00

**p < .01
* p < .05

**Appendix C: Summary Table for Pearson Product Moment Coefficients for
Males in Experiment 1.**

Coefficients are presented in the upper portion of the matrix while corresponding n's are providing in the off diagonals in the lower portion of the matrix.

	Pre AWAM	Post AWAM	Private Beliefs	Pre- Deliberation	Post- Deliberation	Defendant Credibility
Pre AWAM	1.00	.50**	.19*	.17*	.19*	-.02
Post AWAM	n=134	1.00	.08	.06	.16	-.03
Private Beliefs	n=133	n=133	1.00	.71**	.50**	-.40**
Pre- Deliberation	n=134	n=134	n=133	1.00	.54**	-.34**
Post- Deliberation	n=134	n=103	n=133	n=134	1.00	-.16
Defendant Credibility	n=132	n=132	n=131	n=132	n=132	1.00

**p < .01

* p < .05

**Appendix C: Means and Standard Deviations for Final Jury
Verdicts in Experiment 1.**

MAIN EFFECTS

Defense	<u>Self Defense</u>	<u>Automatism</u>
	2.15 ± .87	1.80 ± .83
	n = 20	n = 20

Expert	<u>Expert</u>	<u>No Expert</u>
	1.9 ± .85	2.05 ± .89
	n = 20	n = 20

INTERACTION

		Testimony of Expert Witness	
		<u>Expert</u>	<u>No Expert</u>
Type of Defense	<u>Self Defense</u>	2.1 ± .86	2.2 ± .92
	<u>Automatism</u>	1.7 ± .82	1.9 ± .87

Appendix C: Means Summary Table for AWAM Scores x Defense and Gender

Means and standard deviations for AWAM scores are presented as a function of Defense and Gender.

Type of Defense		
Gender	<u>Self Defense</u>	<u>Automatism</u>
Males	69.38 + 1.3	65.62 ± 1.1
Females	62.3 ± 1.2	64.10 ± 1.3

Appendix D - Summary Tables for Experiment 2

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**Appendix D (i): Summary Table for Results from ANCOVA
on Final Jury Verdicts**

Source	Sum of Squares	D.F.	Mean Squares	F Statistic	P Value
Ratio	.11	1	.11	.22	.64
Abuse	1.07	1	1.07	2.09	.15
Severity					
Defense	5.76	2	2.88	5.61	.01*
Severity x Defense	.24	2	.12	.24	.79
Residual	27.18	53	.51		
Total	34.33	59	.58		

Appendix D (ii): Summary Table for Results from ANOVA on Final Jury Verdicts by Abuse Severity and Defense

Source	Sum of Squares	D.F.	Mean Square	F Statistic	P Value
Main Effects					
Abuse Severity	2.82	1	2.82	4.24	.04*
Defense	6.03	2	3.02	4.54	.01*
2 -Way Interactions					
Severity x Defense	2.23	2	1.12	1.68	.20
Residual	35.9	54	.66		
Total	46.98	59			

**Appendix D (iii): Summary Table for Results from Mixed ANOVA on
Juror Verdicts by Defense, Abuse Severity and Gender**

<u>Source</u>	<u>Sum of Squares</u>	<u>D.F.</u>	<u>Mean Square</u>	<u>F Statistic</u>	<u>P Value</u>
<u>Between</u>					
Defense	11.43	2	5.72	31.96	.01
Severity of Abuse	5.72	1	5.72	32.00	.01
Gender	1.42	1	3.49	15.12	.01
Nest	4.75	9	.91	3.93	.01
Defense x Severity	3.65	2	1.82	10.20	.01
Defense x Gender	.17	2	.08	.47	.62
Defense x Nest	15.85	18	.88	4.92	.01
Severity x Gender	.00	1	.00	.00	.94
Severity x Nest	5.79	9	.64	3.60	.01
Gender x Nest	2.79	9	.31	1.73	.08
Def x Sev x Gender	.57	2	.29	.50	.48
Def x Sev x Nest	21.41	18	1.19	6.65	.01
Def x Gender x Nest	1.88	18	.10	.58	.91
Sev x Gender x Nest	2.87	9	.32	1.79	.07
Defense x Severity x Gender x Nest	3.18	18	.18	.99	.48
ERROR	44.54	249	.18		
<u>Within</u>					
Verdicts	.34	1	.34	4.18	.04
Severity x Verdicts	.07	1	.07	.84	.36
Defense x Verdicts	.65	2	.32	4.05	.02
Gender x Verdicts	.11	1	.11	1.36	.25
Nest x Verdicts	1.30	9	.14	1.80	.07
Def x Sev x Verdicts	.34	2	.17	2.10	.12
Sev x Gen x Verdict	.02	1	.02	.25	.61
Sev x Nest x Verdicts	2.25	9	.25	3.12	.01
Def x Gender x Verdict	.01	2	.01	.08	.92
Def x Nest x Verdict	3.15	18	.17	2.18	.01
Gen x Nest x Verdict	1.05	9	.12	1.45	.17
Defense x Severity x Gender x Verdict	1.18	2	.59	7.39	.01
Defense x Severity x Nest x Verdicts	5.23	18	.29	3.62	.01
Severity x Gender x Nest x Verdicts	1.28	9	.14	1.78	.07
Defense x Gender x Nest x Verdicts	1.29	18	.07	.90	.58
Def x Sev x Gender x Nest x Verdicts	.94	18	.05	.65	.86
ERROR	19.95	249	.08		

Simple Effects

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Defense x Verdict at Female/ Moderate	2	.13	.06	1.81	>.05
Defense at Female/ Moderate	2	10.2	5.08	63.50	.01*
Verdict at Female/ Moderate	1	.52	.52	6.50	.01*
Defense x Verdict at Female/ Severe	2	1.42	.71	8.90	.01*
Defense at Female/ Severe	2	.63	.31	7.90	.01
Verdict at Female/ Severe	1	.40	.40	5.00	.01
Defense x Verdict at Males/ Moderate	2	1.23	.61	7.69	.01*
Defense at Males/ Moderate	2	5.51	2.75	34.40	.01
Verdict at Males/ Moderate	1	.13	.13	1.60	>.05
Defense x Verdict at Males/ Severe	2	.36	.18	2.25	>.05
Defense at Males/ Severe	2	.69	.35	4.38	.01*
Verdict at Males/ Severe	1	.09	.09	1.10	>.05

**Appendix D (iv): Summary Table for Mixed ANOVA of Private Beliefs
by Plea, Expert and Gender**

<u>Source</u>	<u>Sum of Squares</u>	<u>D.F.</u>	<u>Mean Square</u>	<u>F Statistic</u>	<u>P Value</u>
Between					
Defense	660.97	2	330.49	6.99	.01
Severity of Abuse	374.01	1	374.01	7.92	.01
Gender	392.90	1	392.90	8.32	.01
Nest	923.46	9	102.61	2.17	.03
Severity x Defense	23.11	2	11.56	.24	.78
Severity x Gender	20.46	1	20.46	.43	.51
Severity x Nest	985.40	9	109.49	2.32	.02
Defense x Gender	14.80	2	7.44	.16	.85
Defense x Nest	1568.55	18	87.14	1.84	.02
Gender x Nest	500.12	9	55.57	1.18	.31
Def x Sever x Gender	183.84	2	91.92	1.95	.14
Def x Sever x Nest	1406.42	18	78.13	1.65	.05
Sever x Gender x Nest	493.46	9	54.83	1.16	.32
Def x Gender x Nest	699.24	18	38.85	.82	.67
Defense x Severity x Gender x Nest	475.11	18	26.39	.56	.93
ERROR	11764.7	249	47.25		
Within					
Beliefs	55.16	4	13.79	1.77	.13
Severity x Beliefs	89.12	3	22.28	2.86	.02
Defense x Beliefs	146.18	8	18.27	2.35	.02
Gender x Beliefs	40.26	4	10.06	1.29	.27
Nest x Beliefs	366.75	36	10.19	1.31	.11
Def x Sever x Beliefs	36.94	8	4.62	.59	.78
Def x Gender x Beliefs	11.48	4	2.87	.37	.83
Sever x Nest x Beliefs	284.29	36	7.90	1.01	.45
Def x Gender x Beliefs	69.08	8	8.64	1.11	.35
Def x Nest x Beliefs	662.89	72	9.21	1.18	.15
Gen x Nest x Beliefs	333.62	36	9.27	1.19	.21
Defense x Severity x Gender x Beliefs	77.60	8	9.70	1.25	.27
Defense x Severity x Nest x Beliefs	727.31	72	10.10	1.30	.05
Severity x Gender x Nest x Beliefs	220.44	36	6.12	.79	.81
Defense x Gender x Nest x Beliefs	443.71	72	6.16	.79	.90
Def x Sev x Gender x Nest x Beliefs	523.35	72	7.27	.93	.63
ERROR	7754.39	996	7.79		

Simple Effects

Beliefs at Defense

Self Defense	80.83	4	20.20	2.59	>.01
Automatism	170.02	4	42.50	5.46	.01*
Psych Self Defense	40.54	4	10.14	1.30	>.01

Defense at Beliefs

Interval 1	17.01	2	8.05	.54	>.01
Interval 2	49.40	2	24.70	1.57	>.01
Interval 3	229.29	2	114.65	7.30	.01*
Interval 4	145.80	2	72.90	4.6	.01*
Interval 5	346.80	2	173.40	11.05	.01*

Beliefs at Abuse
Severity

Moderate	11.74	4	2.93	.38	>.01
Severe	146.10	4	36.50	4.69	.01*

Defense at Beliefs

Interval 1	1.08	1	1.08	.07	>.01
Interval 2	106.94	1	106.94	6.83	.01*
Interval 3	101.43	1	101.43	6.47	.01*
Interval 4	115.32	1	115.32	7.35	.01*
Interval 5	69.95	1	69.95	4.46	.01*

**Appendix D (v): Summary Table of Results from Mixed ANOVA of
Pre - Post Deliberation Verdicts by Abuse and Gender**

<u>Source</u>	<u>Sum of Squares</u>	<u>D.F.</u>	<u>Mean Square</u>	<u>F Statistic</u>	<u>P Value</u>
<u>Between</u>					
Abuse	2.16	1	2.16	6.90	.01*
Gender	.09	1	.09	.24	.63
Abuse x Gender	.61	1	.61	1.60	.21
ERROR	119.85	317	.38		
<u>Within</u>					
Pre-Post Verdicts	.73	1	.73	6.51	.01*
Abuse x Verdicts	.28	1	.28	2.49	.12
Gender x Verdicts	.01	1	.01	.06	.81
Abuse x Gender x Verdicts	.14	1	.14	1.29	.26
ERROR	35.40	317	.11		

Appendix D: Summary Table of Pearson Product Moment Co-efficients for Experiment 2 Variables

Pearson product moment correlations for 5 variables collapsed across gender are presented. Co-efficients appear in the upper portion of the matrix while corresponding sample size is provided off diagonal in the lower portion of the matrix.

	<u>Court</u>	<u>Abuse</u>	<u>Private Beliefs</u>	<u>Pre-Deliberation</u>	<u>Post-Deliberation</u>
Court	1.00	.21 **	-.23**	-.18**	-.16*
Abuse	n=321	1.00	-.11*	-.17**	-.09*
Private Beliefs	n=321	n=321	1.00	.78**	.56**
Pre-Deliberation	n=321	n=321	n=369	1.00	.56**
Post-Deliberation	n=321	n=321	n=369	n=369	1.00

**p < .01

* p < .05

Appendix E - Script for Experiment 1

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* Expert Witness Testimony only appears in Conditions 2 and 4.

** Testimony in the Automatism Conditions that differs from the Self Defense Conditions appears in italics.

Opening Statement by the Judge

(Self Defense: Severe and Moderate Conditions)

This court is now in session and will hear case number 3462:
Crown vs. Mrs Judy Richards

Members of the jury,

Mrs. Judy Richards has been charged with the second degree murder of her husband, the late Douglas Richards, under section 212 (a) of the criminal code of Canada which reads:

Culpable homicide is murder where the person who causes the death of a human being means to cause his death.

Furthermore, under section 214 (2) of the criminal code of Canada murder is first or second degree murder when it is planned and deliberate. The court recognizes that second degree murder is distinct from manslaughter in that in the case of second degree murder the act is not committed in the heat of passion or caused by sudden provocation.

At the initial arraignment on June 26, 1989, Mrs. Richards pleaded not guilty to the charge of second degree murder by reason of self defense. In order for the plea of self defense to be accepted under the law, section 14 (2) of the criminal code of Canada states that two conditions must be met. The first condition is that the defendant must have had a reasonable belief that they were in imminent danger of death or serious physical harm at the time of the incident and second, that the defendant used reasonable force in order to protect themselves from such a threat.

Your duty, members of the jury, will be to listen to all the arguments presented by both the crown prosecutor and the defense attorney before arriving at a decision as to the validity of Mrs. Richard's plea. You must remember that Mrs. Judy Richards is presumed innocent of the charges until proven otherwise and that the burden of proof is on the prosecutor. Mrs. Richards is entitled to a fair trial by her peers and you, the jury have been selected to fulfill this role. If, at any time during the trial you no longer feel you are able to carry out your duties as a juryperson

because of prejudices or unfair biases towards the accused, you are asked to inform the court immediately. We will now hear the opening statements from the prosecutor and the defense.

Opening Statement for the Prosecution.

(Self Defense: Severe and Moderate Conditions)

Members of the jury

You are about to hear the case of the crown vs. Mrs Judy Richards. You will hear how she was badly abused and mistreated by her husband, the deceased Douglas Richards, for a period of 3 years. You will hear evidence presented by the defense as to how he inflicted not only physical damage upon her person, but also how he subjected her to incidents of mental torture and cruelty. You will hear how she tried to do everything in her power to stop him from beating her and how in the end, the defense will suggest that the only way she found to stop him from hurting her and her baby was to shoot him. A very heart wrenching and emotional story indeed. One that I'm sure the defense will want you to keep in mind.

The prosecution concedes that Mr. Richards was not an ideal husband and that the evidence surrounding the case suggests that at times Mr. Richards lost his temper with his wife. The crown also concedes the possibility that Mr. Richards might have needed counselling to help him learn to control his temper and to communicate more effectively with his wife. But Mr. Douglas Richards is not on trial here. It is Mrs. Richards that is on trial for murder... second degree murder.... planned and deliberate homicide. The motive of revenge does not justify murder. What you must remember throughout this trial, and what you ultimately must use to make your final decision in this case are the facts, and once the facts of this case become known, the law is clear.

The first fact of this case is that Mrs. Richards killed her husband. We know this by Mrs. Richards' own admission. So the question in this trial is not one of who killed Mr Richards. The question, rather, is whether or not Mrs. Richards was legally culpable in the death of her husband. *She states that she killed him in self defense. But I'll ask you, jurors, to keep in mind*

throughout this trial the definition of self defense. Self defense is a tenable plea if and only if: The defendant was in imminent danger of death or serious physical harm at the time of the incident and that reasonable force was used to protect herself from such a threat.

I intend to prove to you that Mrs. Richards was not in imminent danger of death or serious bodily harm at the time of her husband's death and I will do this by examining the facts of the case. Now, as I stated before, we know that Mrs. Richards killed her husband and.....we know that she killed him while he was asleep. For this reason, Mrs. Richards was obviously not in imminent physical danger from her husband. Second, I intend to prove that even if Mrs Richards believed she was in danger, she did not use reasonable force. Mrs. Richards pulled the trigger of a gun on her sleeping husband not just once, or even twice, not three times but on four separate occasions fired a long rifle, hollow point bullet into her husband's body. The prosecution maintains that this is, indeed, excessive force.

The self defense plea offered by Mrs. Richards is not appropriate. Mrs. Richards, by her own admission, had thought about ridding herself of her husband at least 12 hours prior to the act. It could hardly be said either, that Mrs. Richards was in imminent danger of death at the time of the shooting, because her husband was sleeping. Furthermore, none of Mrs. Richards' statements explain why she used such excessive force in ridding herself of her husband. There are many legal alternatives open to women in abusive marital situations and Mrs. Richards could have pursued these routes instead of cutting her husband in two with a semi-automatic rifle.

The crown will present evidence showing that Mrs. Richards was in full control of the situation at the time of the murder and consequently, with deliberate mal-intent, killed her husband in cold blood. For these reasons, members of the jury, I ask you to find Mrs. Judy Richards guilty of murder in the second degree.

Opening Statement for the Defense

(Self Defense: Severe Condition Only)

Members of the jury,

My learned colleague, Mr. Lewis, has told you that Judy Richards was beaten and psychologically abused by her husband prior to his death. He has also told you that Mr. Richards could have benefited from counselling to help him to quell his nasty temper. And finally, Mr. Lewis suggested that Judy should have used the legal system or simply left her husband in order to avoid being beaten and abused by him. In a normal situation and with normal individuals, even I might agree with Mr. Lewis's recommendations.

But, what the defense will show, is that the activity in the "Richards' household" was not that of a normal family. Mr. Richards had more than a "nasty temper", as suggested by my colleague. Mr. Douglas Richards treated his wife, Judy, in much the same way as political prisoners are treated in third world countries. She was literally a prisoner in her own home and consequently was subjected to what amounts to torture. Because of such treatment Judy felt she was, in a sense, at war. Hardly a normal situation.

On the night of her husband's death, Judy Richards' life had been threatened. Her husband had told her that he was going to kill her and had shown her the rifle he was going to use to do it. I want you to imagine the psychological terror that such a threat would evoke..... *based on his past behavior, Judy believed that this was no idle threat, and she believed that she was in imminent danger of death.* Why didn't she go to the police at this point? Judy will tell you why she didn't enlist the help of the police. She had previously gone to the police and did not receive the help she needed. Indeed, she had ended up in the hospital with considerable injuries after the police had left and her husband punished her for having contacted them. Consequently, Judy did not feel the police would be able to protect her from her husband

in the long run or would even take her present complaint seriously.

Why didn't she just leave? Judy could not leave her situation because she had a baby, no money and nowhere to go. Besides, her husband had threatened to track her down and kill her even if she did leave. Members of the jury, there are many documented cases of violent husbands tracking down wives who tried to leave them and of these same husbands eventually killing them. Judy could not face a life of running and hiding from a man that she believed would ultimately kill her. Again, I ask you to imagine what life would be like if you had to run and hide from someone who you believed would kill you if they found you? Imagine the terror of such an existence.....Judy believed her husband's threats. She was terrified for her life and felt she had no one to turn to for help.

Did she use excessive force? At the time of her husband's death, Judy was suffering from the physical consequences of her husband's latest attack. She was physically exhausted, feeling trapped in a hopeless situation, and terrified of her husband, terrified for her life and for the life of her baby. Members of the jury, Judy knew that she had to ensure she would not suffer retribution from her husband. She knew that if he survived, she would ultimately die by his hand. Indeed, Judy's terror ran so deep that she was not even sure she had killed him even though she fired four bullets.

The defense maintains that Judy Richards killed her husband in self defense. Her life was in imminent danger and she did what she thought was necessary to protect herself and her baby from her husband's wrath. For this reason, I ask you to find Judy not guilty by reason of self defense.

**Witnesses for the Prosecution
(Moderate and Severe Condition
Self Defense, Automatism and Psychological Self Defense)**

Officer Burke

Prosecution: Please state your name and occupation for the record.

Officer: My name is James Burke and I am presently an officer on the Gloucester police force.

Prosecution: Please tell the court, Officer Burke, what happened on the morning of June 25, 1989.

Officer: Well, my partner and I, Officer MaGuinness, received a call about 2:11 a.m. on the radio to respond to a possible homicide at 3212 Bilberry Road. When we approached the house everything seemed quiet and dark. Because of the nature of the call we had our weapons drawn and proceeded into the house. We could see into the front living room.

Prosecution: Please tell the court what happened next.

Officer: Well, that woman, (indicating Judy) Mrs. Richards was sitting in a chair holding a rifle.

Prosecution: Was this the weapon Officer Burke? (holds up rifle).

Officer: Yes, it looked like that.

Prosecution: The prosecution offers this as exhibit A. Please proceed.

Officer: Well, I told her to put down the weapon and move away from it. At first she didn't seem to hear me so I repeated the

statement. She just kept looking at me. At this time I had my gun pointed directly at her and was moving slowly towards her. She didn't move at all and just kept staring. By this time I was close enough to grab the gun. She released the gun to me without a struggle. I gave the gun to my partner to hold. At that point she said "He's in the bedroom". I told my partner to stay with her and I went in the direction she had indicated.

Prosecution: What happened once you were in the bedroom?

Officer: I could see a body covered in blood lying on the bed. I felt for a pulse but there didn't seem to be much point. His head was shattered and he was bleeding profusely from the chest. I then left the bedroom and phoned the precinct for a homicide squad and an ambulance. I read Mrs. Richards her rights in the presence of my partner and took her down to the station.

Prosecution: Did Mrs. Richards say anything to you at this time?

Officer: She asked me who would look after the baby. She seemed concerned about this because the baby was sick and she thought he needed to see a doctor.

Prosecution: Did she show any remorse or concern for what she had done?

Officer: Well, ..

Defense: Objection your honor. The witness is not qualified to make that type of an inference.

Judge: Objection sustained. The witness will disregard the prosecutor's last question.

Prosecution: Was Mrs. Richards crying on the way to the station?

Officer: No.

Prosecution: Did Mrs. Richards' wring her hands or appear agitated or give any indication to you that she was upset?

Officer: No.

Prosecution: That is all Officer Burke.

Cross-Examination of Officer Burke

**(Moderate and Severe Conditions
Self Defense, Automatism and Psychological Self Defense)**

Defense: Officer Burke, when you entered the house you stated that you actually approached Mrs. Richards even though she had a weapon. Isn't that an unusual way to proceed?

Officer: Yes, it is. The gun was pointed down the hallway, away from me though, towards the bedroom and I just didn't think she was going to do me any harm. She seemed so dazed....

Defense: What do you mean by dazed?

Officer: She had kind of a far away look in her eyes and wasn't responding to the questions I was asking her.

Defense: No further questions your honor.

Witness for Prosecution

**(Moderate and Severe Conditions
Self Defense, Automatism and Psychological Self Defense)**

Coroner

Prosecution: Please state your name and occupation for the record.

Coroner: I am Dr. Learner of the Ottawa Coroner's Office.

Prosecution: Please describe for the jury. Dr. Learner, the extent of Mr. Richard's wounds and the resulting consequences.

Coroner: The deceased, Mr. Richards, died of blood loss as a result of sustaining 2 gunshot wounds to the left temporal lobe and 2 bullets to the left chest cavity.

Prosecution: At what range were the bullets fired?

Coroner: I would estimate that the bullets to the head were fired at extremely close range, maybe 10 cm. while the wounds to the chest cavity were fired from maybe 50 cm.

Prosecution: Which bullet finally killed him Dr. Learner?

Coroner: Oh, the first shot fired would have been enough to kill him.

Prosecution: Thank you Dr. No further questions.

Cross-Examination of Coroner

**(Moderate and Severe Conditions
Self Defense, Automatism and Psychological Self Defense)**

Defense: Dr. Learner, from your report it appears that at that time of his death Mr. Richards had a blood alcohol count of .24. Is this considered high?

Coroner: Well, the legal limit is .08 so I would estimate that he was fairly intoxicated at the time of his death.

Defense: Was there any evidence that Mr. Richards was an alcoholic?

Coroner: Judging from the condition of his liver and spleen, I would conclude that he was a fairly heavy drinker.

Defense: As well, Dr. Learner, your report states that there were bruises on Mr. Richards right hand. Were these sustained recently?

Coroner: Yes. I would say prior to 48 hours of his death.

Defense: Was it possible that these bruises were the result of Mr. Richards having hit his fist against something? Say, for example, Mrs. Richards head?

Coroner: It's possible. He would have had to hit her pretty hard though for that to be the cause of those bruises.

Defense: That's all for now Dr. Learner.

Witness for the Prosecution

**(Moderate and Severe Conditions
Self Defense, Automatism and Psychological Self Defense)**

Office mate: Mark Branswell

Prosecution: Please state your name and your relationship to the deceased.

Mark: My name is Mark Branswell and I worked in the Sales department with Doug at The Bay.

Prosecution: How would you describe Mr. Richards, Mark?

Mark: Well, he was a quiet guy, he worked hard. He kept to himself pretty much.

Prosecution: Did he ever say anything about his wife or his family to you?

Mark: Well, he didn't seem too happy with his homelife.

Prosecution: How do you know that?

Mark: We would often go out for a drink or something after work and he told me that he thought his wife was a little crazy...

Prosecution: A little crazy...I see.... What else did he tell you about his home life?

Mark: One night we were talking about women, you know,.. and he said that ever since the baby had come his wife didn't want to have sex anymore and that she didn't look after the house like she used to ...and I could tell that that made him mad. He also thought that she might have been seeing somebody else but that he didn't

have any proof. I think he really cared about her though. He used to phone her about 5 times a day when he was at work.

Prosecution: You said that some things his wife did made him mad. What did he do on these occasions?

Mark: Well, often he would call me to come meet him at the bar for a drink because he was mad and so had left the house.

Prosecution: He left the house when he was mad. I see. Did he ever talk about hitting his wife Mr. Branswell?

Mark: He mentioned a few times that he had pushed her around just to remind her who was boss but he never really said too much.

Prosecution: Did he ever talk about killing his wife Mark?

Mark: No, never to me.

Prosecution: Mr. Branswell, I understand that you and the deceased also went hunting on occasion

Mark: Yes, we had licenses to do that.

Prosecution: Were you planning a hunting trip prior to the day he was killed.

Mark: Well we were planning to go and shoot some targets at the range that Sunday.

Prosecution: So that would account for why Mr. Richards had been cleaning his gun on the night that he was killed.

Defense: Objection your honor. The prosecution is asking for a conclusion as to the intent of Mr. Richards' actions.

Judge: Objection sustained. The jury will disregard Mr. Branswell's last statement.

Prosecution: Thank you Mr. Branswell, that's all.

Cross Examination of Mark Branswell

**(Moderate and Severe Conditions
Self Defense, Automatism and Psychological Self Defense)**

Defense: You stated, Mr. Branswell, that you and the deceased would meet occasionally for a drink. Did the two of you ever get into arguments with other patrons at the bar?

Mark: Well, once or twice maybe.

Defense: Weren't you both, in fact, thrown out of the bar, for beating up another man?

Mark: Yes, but the guy had it coming to him.

Prosecution: Objection your honor, I fail to see how this line of questioning is relevant to the present case.

Defense: I was simply trying to show, your honor, that Mr. Richards had a history of violence and that this violent behavior was not simply confined to attacks against his wife.

Judge: Objection overruled, but do try to make your point counsellor.

Defense: Mr. Branswell, would you describe Mr. Richards as a violent man?

Mark: Well, he's not the kind of guy I would like to cross, if you know what I mean. Most of the time he was just very reserved though.

Defense: No further questions your honor.

Witnesses for the Defense

(Severe Condition Only

Self Defense, Automatism and Psychological Self Defense)

Dispute Officer: Officer Montgomery

Defense: Please state your name, occupation and relationship to the accused.

Officer: My name is Officer Montgomery and I am a policeman with the Ottawa Police Force. I first met Mrs. Richards in August of 1988.

Defense: How did this meeting come about?

Officer: My partner and I were responding to a domestic dispute call at the Richards house.

Defense: What happened after you arrived?

Officer: Well, Mr. Richards answered the door and asked me what the matter was. When I told him we received a call from his wife asking for help he laughed and said that they had just been having a little argument but it was nothing serious and that everything was alright. I asked to speak to Mrs. Richards and he said that wouldn't be necessary. I insisted however and he called her to the front door. I could tell she had been crying and there appeared to be swelling under her right eye. Mr. Richards had his arm around her and was being very affectionate and soothing towards her. She was hesitant about talking to me at first. She kept looking at her husband. I asked her why she had called and eventually the story came out that he had hit her a couple of times and she was worried because she was pregnant. Mr. Richards started getting a bit agitated at this point and insisted that she was lying.

Defense: Go on Officer Montgomery

Officer: When I asked him about her eye he said that she had slipped and hit the door frame and added that she was generally very clumsy. When I asked her what had happened she started to cry and her husband started to yell at her to tell the truth. He also called her a stupid cow and a bitch. At this point I asked Mrs. Richards if she wanted to press assault charges. I could see she was afraid to say anything while her husband was there so I told her my partner would take her husband out for awhile and she could decide.

Defense: What happened after Mr. Richards was out of the house?

Officer: After they had left I told Mrs Richards that it was within her rights to have her husband arrested for assault. She asked me what would happen to him if she did that. I told her usually, in cases like this, he would spend the night in jail and be let out on bail the following morning.

Defense: Could Mr. Richards have returned home at this point?

Officer: Yes. At this time, in Canada, we have no legal jurisdiction to prevent him from entering his place of residence and consequently he would be able to return home the following day. The only way to prevent him from returning home would be for Mrs. Richards to ask a court judge to issue a peace bond. However peace bonds do not insure that the husband will no longer be violent. Besides, it would have taken a couple of days for that process to occur.

Defense: Wouldn't that have left Mrs. Richards in a very vulnerable position? Afterall, her husband was a very violent man.

Officer: Unquestionably, but there is little else that could be done.

Defense: What happened, Officer Montgomery, after your partner returned with Mr. Richards to the house?

Officer: Well, Mr. Richards seemed calm upon entering the house and he told his wife that he was sorry and asked her to forgive him. I again asked if she wanted to lay charges and she said no. I gave her the name and number of Interval house, a shelter for battered woman and told her to call them, or us again if she felt the need. Then we left.

Defense: In cases of domestic dispute, are women required to press charges in order for their spouse to be removed?

Officer: No. However, if she doesn't there is very little hope of the case going to trial.

Defense: Officer, why did you not lay assault charges?

Officer: We need the woman to cooperate and testify against her husband. Many women are hesitant to do that, either because they are afraid of their husband retaliating or, because by the time the trial comes around, they've forgiven him. Often men in these situations pressure their wives to ask to have the charges dropped. In addition, financially it is often hard on the whole family if the husband ends up in jail. The woman ends up having to pay for his court costs and many of them just don't have the financial resources to cope. We get a lot of calls from women that eventually decide not to lay charges or have the charges dropped after proceedings have begun.

Defense: Thank you officer, No further questions your honor.

Cross Examination of Officer Montgomery

(Severe Condition Only

Self Defense, Automatism and Psychological Self Defense)

Prosecution: Officer Montgomery, you stated that Mr. Richards apologized to his wife for his behavior. Did you have any reason to believe that his remorse was not genuine?

Officer: No sir I did not.

Prosecution: No further questions your honor.

Witness for the Defense

(Severe Condition Only

Self Defense, Automatism and Psychological Self Defense)

Dr. Tast

Defense: Please state your name, occupation and relationship to the accused.

Dr. Tast: I am Dr. Tast, an intern at the emergency unit at the Ottawa General Hospital. I met the defendant after she was admitted to our unit on August 9, 1988.

Defense: What was she admitted for?

Dr. Tast: She had two broken back molars, a broken left arm and her sixth rib was cracked. As well, she had severe facial lacerations that required 8 stitches. In addition, her blood pressure was weak due to blood loss

Defense: How had she sustained these injuries.

Dr. Tast: She said she had fallen down the stairs.

Defense: Did you believe her?

Prosecution: Objection your honor. The witness's belief is irrelevant.

Judge: Objection over ruled. You may answer the question Dr. Tast.

Dr. Tast: I did not believe her.

Defense: Why not?

Dr. Tast: The extent of the injuries would not be consistent with this explanation, particularly not the head injuries.

Defense: Did you confront Mrs. Richards with your opinion?

Dr. Tast: Yes. But she insisted that she had fallen down the stairs and said her husband would back her up. She refused to discuss it further. She appeared very upset and agitated. I gave her a prescription for a sedative although cautioned her on the use of the drug as she was about seven months pregnant at the time.

Defense: In your opinion Dr. would her injuries have been consistent with someone having beat her up?

Dr. Tast: Yes. I thought it was highly probable.

Defense: Are you not required Dr., by law, to report suspected cases of wife abuse to the police?

Dr. Tast: No. Unlike cases where child abuse is suspected, there is no mandate to report suspected wife assault to the police. We try to do everything in our power, however, to help a woman in cases such as this to feel at ease and to trust us.

Defense: Was that everything Dr.?

Dr. Tast: Well.. There wasn't a lot more we could do for her medically at the time because of the pregnancy. I asked her to return after she had the baby for a more complete physical and recommended to her that she see a dentist about her teeth. To my knowlege, however, she did not return at that time.

Defense: Did you see Mrs Richards again though?

Dr. Tast: Yes. I saw her on the early hours of Sunday morning, June 25, 1989.

Defense: Why?

Dr. Tast: She was brought in by a policeman and they wanted her examined.

Defense: What did you find?

Dr. Tast: The defendant seemed to be in a state of shock. Her affect was poor and she could not respond coherently to questions. At this point I made an appointment for her to see Dr. Johnson, a psychiatrist, who is part of the family violence unit at the hospital.

Defense: What was her physical condition?

Dr. Tast: She had numerable contusions above her left ear, a severely swollen jaw, 2 cracked ribs and bruises on her left thigh. I also thought that she had suffered some internal damages. Subsequent X-rays showed that she had a severely bruised right kidney and had sustained some internal bleeding.

Defense: Were these injuries recent?

Dr. Tast: Yes. Probably within 24 hours.

Defense: Thank you Dr.

Cross-Examination of Dr. Tast

(Severe Condition Only

Self Defense, Automatism and Psychological Self Defense)

Prosecution: Dr. Tast, after your initial contact with Mrs. Richards, you said that you thought she lied about her injuries. Why would she do that?

Dr. Tast: There could be many reasons but often in cases like this the women don't say anything because they are afraid of their husbands.

Prosecution: Did you ask her husband about her injuries?

Dr. Tast: Yes I did.

Prosecution:and what did he say?

Dr. Tast: He said she fell down the stairs.

Prosecution: Was he upset, did he seem concerned at this time?

Dr. Tast: Oh yes. As a matter of fact, he insisted on being present during her whole examination. He never left her side, even when I performed an internal on her to check on the condition of the fetus. In cases such as this we always attempt to interview the woman without the husband present. Mr. Richards was very hesitant about leaving though.

Prosecution: No further questions your honor.

Witness for the Defense

(Severe Condition Only

Self Defense, Automatism and Psychological Self Defense)

Mrs. Richards

Defense: Mrs. Richards, please tell the court your age and how long you had known your husband.

Mrs. Richards: I am 23 and had been married to Doug for three years

Defense: How did you meet your husband?

Mrs. Richards: After I finished high school I took a full time job working at the Bay in Edmonton. Doug was in the sales office and he used to come by and make some comment all the time to me, kinda funny like. One day he asked me if I would go for lunch with him and I said sure. Well, after that we started dating although I couldn't see him that often because my mother was pretty strict and I was still living at home. I didn't have any brothers or sisters and after my dad died I think my mom relied on me alot. Doug didn't like my mom much though. He thought she controlled my life too much. Anyway, one night, about 6 months after we had been going steady, he asked me if I would marry him and move to Ottawa as he could get a transfer out here really easy. He said I wouldn't have to work and could just stay home and relax. It sounded pretty good to me. My mother was pretty upset about the whole thing and I didn't hear from her for a long time. I found out later, much later, that she had been writing me but since we had moved alot I never got her letters. Doug refused to let me call her as he said she was a bitch and all she had done was shit all over him.

Defense: So you had no contact with your family after you moved to Ottawa?

Mrs. Richards: Actually, about 8 months after we were married I did phone her when Doug was at work and we talked for awhile. I had been feeling rather lonely being in a new place and everything...I hadn't really met anybody and didn't have anybody to talk to. Anyway, when the phone bill came at the end of that month, there was the call on it. Since Doug opened all the mail he had the proof....there was no denying that I had gone behind his back and phoned her. That was the first time he beat me really bad.

Defense: You mean he wasn't violent with you at all before this?

Mrs. Richards: Oh he'd push me around a bit, and once he threw an ashtray at me, but no, that was the first time he'd really let me have it. I was in bed for two days before I could even get up to make myself a cup of coffee.

Defense: How did he treat you after that?

Mrs. Richards: Actually the next day he told me he was sorry that he had lost his temper and I felt kinda guilty because I knew that I wasn't suppose to talk to my mom so we just kinda forgot about it. Everything was O.K. for about a month or so and then he started accusing me of having an affair.

Defense: And were you?

Mrs. Richards: Oh no. Even if I had wanted to I couldn't have...I mean.. He always knew where I was. He would do things like time me when I went to get the groceries and stuff. If I took longer than he thought I should have he would just stand there and belt me in the stomach or something when I came in the door. He would never give me any freedom. At first, I thought this showed

how much he loved me, his being jealous and all, but after a while, I started to think he was crazy. He didn't even like me to close the door when I went to the bathroom.

Defense: It sounds like your husband was quite a jealous man. Mrs. Richards, and violent to. How often would you say, he hit you in the year prior to the night he died?

Mrs. Richards: Do you mean hit me hard?

Defense: Yes, hard enough to cause a bruise.

Mrs. Richards: After that time I ended up in the hospital. that time it was probably once or twice a month.

Defense: Mrs. Richards, did you ever try to leave him?

Mrs. Richards: Yes once, after I had a miscarriage.

Defense: Tell us about that please.

Mrs. Richards: Well, about 6 months after that time he hit me for calling my mom I found out I was pregnant. Doug really wanted to have kids so I thought this would make him really happy. After I told him he didn't seem too interested, he just kinda ignored me. Later that night, he went out with some of his friends and came back at about 2 or so. He woke me out of my sleep and started just wailing on me. He said I was nothing but a whore and that the baby didn't belong to him. He just kept kicking me in the stomach and there was no way I could stop it. I kept pleading with him to stop. He stormed out shortly after this and I felt awful. I started getting cramps and I guess at that point I must have miscarried.

Defense: Did you see a Dr?

Mrs. Richards: No. I didn't want Doug to get any angrier with me than he already was. When I told him I thought I lost the baby he told me I killed it. That was the first time he threatened to kill me...for what I'd done. I was pretty upset and after thinking about it I decided to leave him. I actually packed a little bag and hid it under the bed. I figured the next time he gave me grocery money I would use it to get on a bus and head for home. I thought maybe if I gave Doug a little time alone to think about how he had been treating me he might change. I cared a lot about the guy and really thought he needed me, but I just didn't seem to be able to make him happy.

Defense: Did you leave him?

Mrs. Richards: He found the bag I had packed and knew right away that I was thinking of leaving him. He just exploded and that's when he actually got the gun out. He told me he'd track me down and shoot me so full of holes that I wouldn't be recognized. I just felt so scared... I remembered I just sat there and cried and cried ..I just felt so useless. Anyway, Doug calmed down after a few days and the whole issue was dropped. I was still pretty tense though and I felt like my nerves were shot. I just didn't know what to do. I still loved Doug, but I was so afraid of him to. My feelings about my own safety were starting to override any feelings I had for him. I just wanted him to stop hurting me and I didn't know how to get him to.

Defense: Did you believe that he would kill you if you left him?

Mrs. Richards: Without a doubt. If you could have seen him.....

Defense: How were things between you after you had tried to leave him?

Mrs. Richards: Well I thought maybe if I just tried harder to be a better wife it would be O.K. I found out about 3 months after all

that I was pregnant again. I didn't tell him for about 5 months though, until I was just starting to show. I thought the baby would stand a better chance then.

Defense: Was there anybody you could talk to?

Mrs. Richards: No not really, Doug just didn't like me to talk or get friendly with anybody. It just ended up being worse for me if I did. One time he tied me in a chair all night and took punches at me after he saw me talking to a neighbor. He was convinced that I had been bad mouthing him. No matter how much I denied it he wouldn't believe me. He only stopped when he decided that he was hungry and wanted me to cook his breakfast.

Defense: Couldn't you have confided in your Dr?

Mrs. Richards: Well, after I figured out I was pregnant, about 2 months later, I snuck out of the house and went down to the clinic to make sure. The Dr. I saw there didn't ask me about anything and I was just as glad. I was just too afraid. The next time I saw a doctor was when I was 7 months pregnant, the night Doug really hurt me bad after the police had left.

Defense: We have heard from Officer Montgomery about the evening you called the police and how you subsequently ended up in the hospital. Why didn't you tell the Dr. that your husband had beat you up?

Mrs. Richards: Well, after the policeman had left Doug didn't say anything to me for awhile. Then he started with the names and going on about how ungrateful I had been...and that if I really wanted to know what bad was he'd show me. He started out apologizing to me and ended up beating the shit out of me. I didn't know who was more crazy, me or him. Well...you heard what he eventually did to me. The broken bones...the stitches... He told me if I ever told anybody about what had happened he would kill me.

He said he'd track me down no matter how long it took and he would kill me. He made me swear not to say anything before he'd take me to the hospital. I just didn't want any more beatings so I thought it would be better to not say anything. Besides, it was so embarrassing, I felt so stupid. What would those people think of me?

Defense: Tell us what happened on the night your husband died.

Mrs. Richards: He had threatened to kill me so many times and I really thought that this time he meant it. There was just something a little bit different than the other times. He was just so wild and crazy.. the look in his eyes terrified me.

Defense: Judy, could you tell the court what happened on that weekend?

Mrs. Richards: Well, Doug came home from work on Friday and started right in on me. The baby had been sick and I didn't have time to make dinner and that was all the reason he needed. He hit me a couple of times in the chest with his fist which knocked me to the floor and told me to forget the kid and get him his dinner. I gave the baby, who is only eight months old, half of one of my sleeping pills because Doug just seemed so crazy..... I knew I shouldn't have done that but I had to keep him quiet or Doug might have really hurt him. By the time I got some dinner for Doug he had had a few beers. All the time I was getting dinner ready he kept calling me names and telling me what a terrible mother I was to have let the kid get sick and what a terrible wife I was that I didn't have his dinner ready for him after he worked so hard all day. After I put the dinner on the table he refused to eat it because I had taken so long. At that point he threw the plate against the wall and left the house, saying he'd go out to get something to eat. I knew he was probably going to the bar but I was just glad he was out of the house. I was a little worried that he would still be pissed off when he came home, though I hoped

maybe if he had a good time he would be in a better mood. I cleaned up around the house, cause I knew how much a messy house pissed him off, checked the baby and went to bed around 10.

Defense: What happened next?

Mrs. Richards: I don't know what time it was, I guess around midnight or so, when I heard him coming in. I was in bed and thought I would pretend to be asleep. It didn't do me any good though. He just hauled off and punched me in the back of the head so that I felt dizzy. Then he dragged me from the bed by the leg and proceeded to punch me everywhere. Everytime I fell he would haul me to my feet and hit me again. I kept telling him to stop and was trying to calm him down but it didn't do any good. At one point I fell down and he was kicking me in the head. I must have blacked out because the next thing I knew was that he was standing over me with the gun, pointing it at my head telling me how he was going to blow my brains out. He was calling me every dirty name he could think of and had a really crazy look in his eyes. I was just paralyzed with fear. All I could really think of was what's going to happen to my baby if I'm not here. Then he hit me with the butt end of the gun and I lost consciousness again.

I stayed on the floor of the bedroom all night I guess. I felt really lousy when I got up and thought I must have broken some ribs or something because I was having trouble breathing. The baby was crying so I tried to look after him. Doug wasn't in the house, and I didn't know where he had gone and I just didn't care. I gave the baby something to eat and tried to get myself cleaned up a bit but it hurt too much so I went back to bed. I sat there in bed thinking about all the times he beat me up, all the times he had hurt me and how I just couldn't take it no more. He hadn't hit the baby at least, but I didn't think that would last for long. I kept thinking about how I could get out but I didn't have any money or any way to get away. Besides, I was so sick at the time I could hardly get out of bed. I thought about calling the police but I

remembered what happened last time I did. After thinking about that, I started thinking about killing myself, that's really what I felt like doing...I just wanted to die.... but then I kept thinking of the baby and how I couldn't leave the baby to him. I knew what I really wanted was for him to be dead, out of my life forever, but even thinking that made me feel scared.

Defense: Tell us what happened next Judy

Mrs. Richards: Well, he came back about 5 o'clock and was just ignoring me. He didn't mention anything about the night before and I was trying to avoid upsetting him so I didn't say anything. He had started drinking beer and later, at about 9 o'clock, he got out the gun again. I had given the baby the other half of the sleeping pill because I knew Doug was still in a bad mood and I didn't want the baby to upset him. Doug was cleaning the gun and he kept looking at me..He'd look at me and say he had a big job to do with the gun and wanted to make sure it was working properly. I just knew he meant he was going to kill me with it and I felt a little panicked. He kept describing how powerful the gun was and how sometimes the only solution to some problems was to get rid of them permanently. Then he'd said "yep, tomorrow's the day". Then he started telling me how lousy I looked, as if it was my fault, and then he got mad at me cause he said I kept staring at him. I told him I wasn't feeling too good and he suggested that if I felt that bad I should use the gun on myself. I just looked at him and he said he knew I didn't have the guts, that's why he'd have to take care of the problem himself.

I finally went to bed around 11 and was still feeling pretty lousy. He followed me in and wanted to have sex but I was just to sore, from the beating the night before. I tried to tell him that but he wasn't listening so I just shut up and did my best to get it over with. He fell right asleep afterwards. I got up and went to the kitchen. Although I usually don't drink much I thought I'd have a drink of scotch to soothe the pain in my chest. The gun was sitting on the table just like he'd left it there for me. I started thinking

again about my situation and how he was going to kill me. Things get a bit hazy for me at this point but I remember thinking "I've just got to escape".

From this point on it was like I was watching a movie of myself doing things. I watched myself pick up the gun and take the safety catch off. I still didn't know at this point that I was going to kill him. I just kept looking at the gun and thinking about what a bastard he was. I poured another drink and was still holding the gun. I felt all confused, between the scotch and the pain. It was just like a dream where everything is moving in slow motion. Once again I was watching myself move towards the bedroom door and walk into the room. I walked to the bedroom door with the gun and stood there staring at him. After that I don't remember too much, things get really hazy. I guess I must have put the gun to his head and pulled the trigger, but I can't really remember what happened. It was like somebody else was doing this and I was just watching. I don't really remember firing the other shots but I remember thinking that "if he catches me he's going to kill me". I know that sounds dumb but I just kept thinking "I'm really going to get it for this".

Once the gun was empty, I guess I went back into the kitchen. I really don't remember much at this point. I still had the gun and I remember I was shaking really bad when I went to pour another drink. I took it into the living room and sat in the chair facing the hallway to our bedroom. Everything seemed so quiet, almost peaceful like. I kept thinking, any minute now he's going to burst out of that bedroom and beat the shit out of me. I remember looking down at the gun and wondering what it was doing in my hands. Then I thought, maybe nothing really happened....It is all so hazy and my thoughts at this time were very confused. It was at this point, I guess, that I called the police.

Defense: Thank you Judy. No further questions your honor.

Cross-examination of Mrs. Richards

(Severe Condition Only

Self Defense, Automatism and Psychological Self Defense)

Prosecution: Mrs. Richards: You stated that you killed your husband and that you believed that you had no choice except to do so. We have heard how he physically abused you on a number of different occasions and how, on one of these occasions, you actually phoned the police. Did Officer Montgomery tell you that he would arrest your husband for assault the next time he hit you if you wished to press charges?

Mrs. Richards: Yes.

Prosecution: But you didn't phone the police even though you thought your husband was going to kill you?

Mrs. Richards: No. I knew arresting him wouldn't stop him.

Prosecution: Mrs. Richards, Officer Montgomery also said that he gave you the number of a woman's shelter and suggested you call them if you needed assistance. Why didn't you do that?

Mrs. Richards: I forgot he told me that. Besides what could they have done to help me.

Prosecution: Are you saying Mrs. Richards, that because you forgot about a phone number that could have helped you, you killed your husband?

Defense: Objection your honor. The prosecution is asking the witness to come to a conclusion.

Judge: Objection sustained. The witness is not required to answer that last question.

Prosecution: Mrs. Richards. You said that your husband beat you badly on numerous occasions. Is that right?

Mrs. Richards: Yes.

Prosecution: You didn't like to be hit like that did you?

Mrs. Richards: No.

Prosecution: Did you think your husband was justified in hitting you?

Mrs. Richards: No. I didn't do anything to deserve getting hit.

Prosecution: Well Mrs. Richards.. If he kept hitting you when you didn't deserve it you must have gotten pretty mad didn't you?

Mrs. Richards: I couldn't get mad because if I did he would have hit me even more.

Prosecution: But you must have gotten mad inside even if you didn't let it show...isn't that true, Mrs. Richards?

Mrs. Richards: Yes, I got mad, but I didn't do anything about it.

Prosecution: But you did do something about it, didn't you. When you finally got mad enough you killed him, isn't that right?

Mrs. Richards: I killed him because I was afraid he was going to wake up and kill me

Prosecution: But you must also have been mad enough at him to kill him weren't you?

Mrs. Richards: I don't know. I was just really scared and confused at the time.

Prosecution: But you had been mad at him before?

Mrs. Richards: Yes.

Prosecution: Mrs. Richards, you have told the court that you wanted your husband out of your life earlier in the day, prior to actually committing the act. You also stated that you released the safety catch on the gun prior to going into the bedroom. Finally, you carried the gun into the bedroom and put the gun up to your sleeping husband's head. You then pulled the trigger 4 times. And yet you claim that you had to do this to protect yourself. Was your husband attacking you when you pulled the trigger?

Mrs. Richards: No.

Prosecution: Was he stalking you or making threatening gestures to you?

Mrs. Richards: No.

Prosecution: Well then, why did you kill him?

Mrs. Richards: I believed he was going to kill me when he woke up.

Prosecution: Can you see into the future Mrs. Richards? Could you state with absolute, 100% certainty that he was going to kill you?

Mrs. Richards: Well, I thought so...

Prosecution: Mrs. Richards, let's talk about something else. Did you fire the first bullet that the coronor stated killed your husband?

Mrs. Richards: Yes, I guess so.

Prosecution: Did you fire the second bullet?

Mrs. Richards: Yes.

Prosecution: And how about the third bullet. Did you fire the third bullet?

Mrs. Richards: I don't really remember, but I guess I must have

Prosecution: And finally Mrs. Richards. Did you fire the fourth bullet?

Mrs. Richards: Yes.

Prosecution: So, Mrs. Richards you fired not once, not twice or even three times, but you fired 4 bullets at close range into the sleeping body of your husband. Is that true?

Mrs. Richards: Yes.

Prosecution: No further questions your honor.

Expert Witness Testimony

(Self Defense: Moderate and Severe Conditions)

Dr. Johnson

Defense: Dr. Johnson, you have been called as an expert witness on the battered woman syndrome on behalf of Mrs. Judy Richards who has been charged with the second degree murder of her husband. Could you please state your credentials for the court.

Dr. Johnson: I received my license to practice psychiatry from the University of New Hampshire where I completed extensive investigations into issues surrounding family violence with Dr. Lynn MacDonald. I have also worked with John Williams, a reknown spokesperson and researcher into the plight of battered woman. For the past three years I have been head of the Family Violence Unit at the Ottawa General Hospital and I am also a consultant for Interval house, a shelter for battered women here in Ottawa.

Defense: Could you describe for the court what is meant by the battered woman syndrome?

Dr. Johnson: The battered woman syndrome is commonly used to help explain why a woman would stay with a man after being subjected to serious and often life threatening physical abuse. A recurrent cycle of violence perpetrated by the male has the net result of effectively trapping a woman in the relationship. In the first stage of the cycle, the tension building phase, there is a gradual building of tension characterized by name calling and possibly minor abusive incidents. This is followed by the acute battering stage in which the tension erupts and often severe physical damage occurs to the woman. In the final stage, referred to as the loving contrition stage, the batterer often apologizes for

the abuse and attempts to assure his victim that it will never occur again.

Defense: What effect does this have on the woman?

Dr. Johnson: A situation has been created reminiscent of intermittent reinforcement schedules in learning theory. What this means is that the batterer's cycle of positive and negative behaviors serves to keep the woman in the relationship by convincing her that if she just tried a little harder, her husband, or boyfriend would stop his negative behavior.

Defense: What is the end result of such a cycle?

Dr. Johnson: Well, initially, the woman often denies the severity of the attack and accepts her partner's apologies for the attack as genuine. What is critical to the perpetuation of violence is that the cycle of violence repeats itself over and over again with less time between incidents of battering and fewer and fewer attempts made by the batterer to apologize or make amends after the abusive incident. Furthermore, battering incidents are likely to become more and more severe over time and the woman is less and less likely to be able to feel that she can effectively cope with her abuser or the abuse. In addition, if there are children in the house, violence between the adults often has a profoundly disturbing effect. It is usually at this point that the woman attempts to end the relationship but often the means for her to do this are not available.

Defense: What do you mean, the means are not available?

Dr. Johnson: Well, often women in these situations are socially and emotionally isolated. Batterers tend to keep their victims cut off from social contacts and social support networks and ensure that they are financially dependent on them. They are often jealous and suspicious of their wife's family and friends and often try to

discourage contact with them. The police and judicial system are also set up in such away as to prevent effective intervention for battered woman.

Defense: Could you give us an example of what you mean?

Dr. Johnson: Well, even if a woman does get the police to remove her husband from the house during the course of a violent episode, he is usually released the next day to await a court hearing on assault charges. Legally, he cannot be denied entry into his place of residence however, which often leaves the woman in a very dangerous position. In most situations, she has neither the financial resources nor the means of transportation to get to a woman's shelter and even if she does, chances are that the shelter will be full. We have up to a 3 week waiting period at Interval house, for example, and these are all critical cases. I would also like to mention that even if a women does manage to gain the support of the justice system and leave her husband, this does not necessarily ensure that the battering incidents will stop. Approximately 48% of women who are murdered by their spouse are not living with their spouse at the time of their death. There have been alot of cases, for example, where the woman is severely physically battered or even killed when her husband is exercising his child visitation rights or he has simply tracked her down in an effort to persuade her, through threats, to return to him.

Defense: Could you please explain to the court what, in your opinion, might lead a battered woman to kill her husband?

Dr. Johnson: Well, to begin with, violence between spouses is not as uncommon as one might think. Both batterers and battered women come from all levels of socio-economic backgrounds and education levels. In addition, there is a common misconception that battered women somehow provoke the abuse or enjoy being beaten. No women likes to be beaten. Research to date has clearly demonstrated that there is a lack of evidence to support the

notion that certain types of women are more likely to become involved in a battering relationships or that women who have been in one battering relationship are likely to become involved in another. There is no personality type that is more or less prone to become involved in a battering relationship. In essence, any one sitting here in this courtroom could potentially become the victim in a battering relationship. Some researchers have estimated that anywhere from 10 to 50% of woman living with a man are subjected to some form of physical violence during course of the relationship. Furthermore, in cases where the violence escalates and a life is lost, in 60% of the cases it is a woman that dies.

Defense: What might lead a woman to kill her spouse?

Dr. Johnson: In cases where woman have killed their husband, the differences in size and power between a man and a woman is often the reason why woman choose a lethal means of self-defense, such as a gun. In Mrs. Richards' case for example, her husband was obviously physically much larger and stronger than she was. It would have been impossible for her to defend herself from a physical attack from him without the use of a weapon. In addition, women who have been subjected to years of violent behavior from their partner often come to see their partners as omnipotent and invincible, much like cases of political prisoners. They come to see their very existence as being in the hands of their abuser. Afterall, their partner has managed to have total control over their lives for a number of years. In cases such as this, a woman's mental state is often confused and her ability to think clearly is distorted.

As to your question as to why a battered woman would kill her husband, there are several factors that seem to stand out in these situations. For example, the mother's need to protect a child, the presence of weapons in the house, threats of retaliation from the batterer should the woman attempt to escape. In the present case, all of these factors were involved.

Defense: Dr., you examined my client, Mrs. Richards shortly after she was charged with the murder of her husband. Is that correct?

Dr. Johnson: Yes.

Defense: In your opinion Dr. What was the mental state of Mrs. Richards at the time you examined her?

Dr. Johnson: Well, she appeared to be of average intelligence, coherent and capable of logical thought. She manifested some symptoms of depression; minimal affect, some suicidal ideation...

Defense: In your opinion, Dr. Johnson, is Mrs. Richards suffering from the battered woman syndrome?

Dr. Johnson: I have interviewed Mrs. Richards at great length and I have no hesitation in stating that she was, indeed, a battered woman.

Defense: Given her condition at the time of her husband's death, would you give the court your assessment on the plausibility of her plea.

Dr. Johnson: After reviewing the patterns of violence between this couple I believe that Mrs. Richards thought her husband was going to kill her the following day and that she had sufficient evidence to suggest that he might carry out his threat. In addition, given the nature of his violent behavior and the severity of his attacks, I believe that Mrs. Richards did what she thought was necessary to protect herself from him.

Defense: No further questions your honor.

Cross-Examination of Dr. Johnson

(Self Defense: Moderate and Severe Conditions)

Prosecution: Dr. Johnson you have stated that your practice and training has been almost exclusively with battered women or victims of family violence. Is that true?

Dr. Johnson: Yes.

Prosecution: Would you say, Dr. Johnson that you feel a great deal of empathy and sympathy for victims of family violence, particularly the women and children who have suffered at the hands of a male batterer?

Dr. Johnson: Yes, I do.

Prosecution: Could it not also be true then, Dr. Johnson that you are maybe a little bit too biased when reviewing these cases? After all, women such as Mrs. Richards have already suffered severe physical and emotional damage at the hands of their abusers, why should she be punished any further?

Dr. Johnson: I try to be open minded.

Prosecution: Ok. Dr. Johnson. I would like to ask you about your interviews with Mrs. Richards. You stated that she is indeed a battered woman. Did you talk with anybody else to corroborate her stories?

Dr. Johnson: I think the police reports and the medical examiner have provided plenty of evidence to corroborate her story.

Prosecution: Dr. Johnson, to address your testimony that Mrs. Richards is a battered women. Let us consider a little more carefully exactly what the syndrome of the battered woman is. In

your opinion, would a woman who has been hit once be considered a battered woman?

Dr. Johnson: It would depend on the circumstances surrounding the incident.

Prosecution: Ok. Her husband is jealous and finds a man's phone number in her pocket. Upon questioning her he loses his temper and hits her, then apologizes. Is she a battered woman?

Dr. Johnson: I would still need more information.

Prosecution: But DR. The three stages of the battered woman syndrome that you mentioned are all evident in the example I gave you. There is a tension build up, an acute incident of violence and an apology afterward. What more evidence do you need. It seems to me that possibly the syndrome isn't as clearly defined as you would have us believe.... As a matter of fact, Dr. isn't it true that several notable researchers in the family violence field don't agree with the idea that a battered women syndrome exists?

Dr. Johnson: Well, yes but differences of opinion exist largely at a practical level. The vast majority of experts in the field agree that it is not the woman who is to blame in situations of family violence but rather it is the existing social structure that maintains power predominately in male hands that needs to be altered. The battered woman syndrome is merely a way of defining a segment of our population that has largely been misunderstood and ignored for a long time.

Prosecution: You also stated Dr. that 50% of women in a cohabiting relationship potentially could suffer physical violence at some time. Is that true?

Dr. Johnson: Yes.

Prosecution: ... and you also stated that because of the size difference between men and women that a woman must often resort to using a lethal weapon to repel her attacker. Is that true?

Dr. Johnson: Yes.

Prosecution: Does that mean, then Dr., that half of the women in our country are justified in killing their spouse?

Dr. Johnson: Of course not. It does mean that the lethal potential is there though unless we do something to help these women.

Prosecution: Well Dr. Johnson, you also stated that you are a consultant at Interval House for battered women. Is that correct?

Dr. Johnson: Yes.

Prosecution: Were any of the battered women at Interval House severely beaten by and cruelly treated by their husband?

Dr. Johnson: Yes. Some of them suffered severe abuse.

Prosecution: Were any of those women beaten so severely that they had bones broken or teeth knocked out?

Dr. Johnson: Yes. Some were certainly beaten that bad.

Prosecution: Did the husbands of any of those women ever threaten to kill them?

Dr. Johnson: Yes. It is not uncommon for battering husbands to threaten their wife with death.

Prosecution: Dr. You have just testified that on a daily basis you worked with women who, just like Judy Richards, were repeatedly and severely beaten by their husbands, suffered broken bones,

were threatened with death by their husbands and who were severely emotionally traumatized. Now Dr. none of the severely beaten women you worked with at Interval House killed their husband, did they?

Dr. Johnson: No.

Prosecution: In other words, despite being diagnosed by you as suffering from the battered women syndrome, all of these women managed to leave their situation without killing anyone.

Dr. Johnson: Yes, but the potential for violence was certainly there in many of these cases. Many of these women were extremely fortunate to have escaped from their situations. In addition, Mrs. Richards case was indeed, extreme.

Prosecution: But despite any such potential, these battered women realized that killing their husband was not the only option available to them and they left their situation without killing anyone. Isn't that right?

Dr. Johnson: Yes.

Prosecution: So, Dr. most battered women can manage to successfully leave a battering relationship without killing their husband. Isn't that true?

Dr. Johnson: Yes.

Prosecution: No further questions your honor.

Closing Statement for the Defense

(Self Defense: Severe Condition Only)

Members of the jury

Although Mrs. Richards is on trial for murder, she has really been the victim of an insidious crime. A crime that has been documented over and over again, but has only recently come under public scrutiny. That crime, members of the jury, is wife abuse. The home has always been considered a sanctuary from the often cold and cruel outside world.... A haven from the miseries we hear about daily on the local news and from our friends and neighbors. But we have a case here, a tragic case, where the home was not a refuge, but instead a place where insult and physical punishment was handed out on a daily basis. The Richards' home was dominated by a cruel and sick man, a man who instead of treating his wife with love and respect, treated her with torment and cruelty. He beat her for not bringing home the groceries on time, he beat her and hospitalized her with broken bones, he beat her and caused her to miscarry and because of his constant cruelty Mrs. Richards is left with emotional scars that will not heal for a long time.

And so, when the strain of trying to maintain her sanity became too much, when the continuation of her life and the life of her baby were in question, she protected herself by taking her tormentor's life. *Did she have a reasonable belief that she was in imminent danger of death or serious bodily harm at the time of her husband's death? He had told her that he was going to kill her the very next day and threatened her with the very weapon he was going to use. Judy Richards has stated that she believed she was going to die and based on the increasing severity of his attacks I submit to you that her belief was indeed, reasonable.*

Although Mr. Douglas Richards is not on trial here we must take into account his culpability in this case. I ask you to consider the example of a drunk driver. If an individual chooses to get into a vehicle while in a state of extreme intoxication and then drives

that vehicle into a pole.... we don't blame the pole for his death, do we? No ... the individual is held accountable for their situation. If Mr. Richards had been a kind and considerate man, would Judy have used a gun on him? Of course not. All she wanted was to lead a life that held some meaning for her... and Mr. Richards took the possibility of such a life away from her. He had repeatedly threatened her life and had shown her the weapon he was going to use. He terrorized her. Judy Richards has stated that she believed she just couldn't go on.

Could she have gone to the police with her fears? She had gone to the police once before and had ended up in the hospital with a broken arm, broken ribs, severe bruises and facial lacerations that required stitches..... And even if the police could have prevented the attempt on her life the next day, what about the next attempt and the next and the next.... There were certainly no signs that Mr. Richards behavior was getting any better. Indeed, the viciousness and severity of his attacks were becoming worse. The police could not have helped Judy unless they were prepared to maintain an armed guard around her for the rest of her life. And I ask you...what kind of life would that be?

And so instead of being killed, she turned her husband's weapon on himself. *Did she use excessive force? If you consider the viciousness of her husband's attack and the extent of the injuries she had previously suffered as a result of his beatings, she used a force necessary to stop him.*

Members of the jury, I don't ask you to pity Mrs. Richards. No, Instead, I ask you to give Mrs. Richards the justice that has been sadly lacking in her life. And in asking you for justice, I ask you to find Judy Richards not guilty of murder in the second degree by *reason of self defense*. Thank you.

Closing Statements for the Prosecution

(Self Defense: Moderate and Severe Conditions)

Members of the jury

This case is actually very simple. It is, as my learned colleague suggests, very tragic, but still, it is very simple. Culpable homicide is murder when a person means to take the life of another human being. Mrs. Richards took her husband's life. She consciously thought about getting out of the relationship earlier in the day, she took his gun, released the safety catch, carried it into the bedroom, pulled the trigger once, again, again and finally a fourth time while he lay sleeping. By her own actions and her own admission, she killed her husband. Members of the jury, I want you to remember that revenge does not justify murder.

The defense would have you believe that Mrs. Richards killed her husband in *self-defense*. However, the law is very clear on the conditions necessary for the self-defense plea to be tenable. *The defendant had to believe that they were in imminent danger of death or serious bodily harm at the time of the incident and had to use reasonable force to prevent that from occurring. Mrs. Richards killed her husband in his sleep. Members of the jury, a sleeping man cannot put anyone's life in imminent danger. And although the judge will give you further instructions later as to the legal meaning of imminent danger let me just say here that as far as the law is concerned, imminent danger means immediate danger; danger such as must be instantaneously met and cannot be guarded against by asking for the assistance of others or calling the police. Surely a sleeping man does not constitute an instantaneous danger and surely if, as Mrs. Richards believed, her life was in imminent danger she had ample time to call the police. Clearly, Mrs. Richards self-defense plea, given the legal meaning of the term imminent danger, does not hold up here.*

My colleague has tried throughout this trial to shift the blame of Mr. Richards death onto Mr. Richards himself. Mrs.

Richards has admitted herself that her husband apologized for his behavior and attempted to make it up to her by being a better husband. He failed in his sincere attempts, and members of the jury, for that reason Mrs. Richards blew him away with a semi-automatic rifle.

The evidence presented at this trial shows clearly that Mrs. Richards did not kill her husband in *self-defense*, but that she knew what she was doing and had alternatives to the ultimate course of action she took. I suggest to you, members of the jury, that if Mrs. Richards gets away with murder, then we might as well declare open season on husbands everywhere.

With the facts of the case in mind, and with, as my colleague suggested, justice as our mandate, I want you to uphold the law and find Mrs. Richards guilty of murder in the second degree.

Judges Closing Statements

(Self Defense: Moderate and Severe Conditions)

Members of the jury

You have heard all the arguments presented by both the prosecutor and the defense attorney and are now required to come to a decision regarding the tenability of Mrs. Richards plea of *self defense*. To reiterate: Mrs. Richards has been charged with second degree murder in the death of her husband, Mr. Douglas Richards. The counsel for the defense maintains that Mrs. Richards was not guilty by reason of *self defense*. *They maintain that at the time of her husband's death, Mrs. Richards had a reasonable belief that her life was in danger.* They have also suggested that because of existing legal and social structures, Mrs. Richards could not rely on the police to protect her from her violent husband or social agencies to support her if she attempted to leave her husband. The defense maintains that she had only herself to rely on to protect herself from her husband and consequently she relied on a means that would ensure her safety.

The prosecution, on the other hand, maintains that Mrs. Richards is legally culpable in the death of her husband. *They maintain that based on the legal definition of self defense that Mrs. Richards belief that she was in imminent danger of death was not reasonable because of the fact that her husband was sleeping at the time of the incident and therefore could not have put her life in imminent danger. In addition, the crown maintains that because she fired four bullets into her husband, she used excessive force and consequently again exceeds the legal plausibility of reasonable force necessary for the self defense plea to be tenable.* In deciding the verdict you, the members of the jury, have two options available to you. First, you can find Mrs. Richards guilty as charged. In this case I will impose sentencing as dictated by law. I have no choice except to do so. or you can find Mrs. Richards not guilty by reason of *self defense*.

It is my duty to remind you that under section 14 of the criminal Code of Canada a *self defense plea can be entered when the defendant had a reasonable belief that they were in imminent danger of death or serious bodily harm and that the amount of force used by the defendant was necessary to repel the attacker.* Now, legally, the term *imminent danger* is taken to mean, and I quote; *immediate danger, such as must be instantly met, such as cannot be guarded against by calling for the assistance of others or the protection of the law.* Reasonable force is taken to mean, legally, and again I quote: *that degree of force which is not excessive and is appropriate in protecting oneself.*

All jury members are reminded that in order to find the accused guilty, they must be certain that guilt has been proven beyond a reasonable doubt. Now, reasonable doubt concerning guilt is not merely the possibility of innocence. A reasonable doubt is a doubt that would cause a reasonable and prudent person in the graver and more important affairs of life to pause and to hesitate to act upon the truth of the matter charged.

Proof beyond a reasonable doubt is not proof beyond all possible or imaginary doubt. Instead, it is proof that precludes every reasonable hypothesis except the hypothesis that it tends to support. Proof beyond a reasonable doubt is proof to a moral certainty. Proof beyond reasonable doubt is proof strong enough to convince reasonable people who have examined the evidence before them that no other reasonable conclusion is possible.

If, after hearing all the evidence, you possess reasonable doubt, you must find the accused not guilty. If, on the other hand, you as a juror believe that guilt has been established beyond a reasonable doubt, that is, you are satisfied to a moral certainty and are convinced, you must find the accused guilty as charged.

Members of the jury. It is important that you review carefully all of the evidence that has been presented. You should think carefully about the testimony that you have heard and you must make judgements as to the credibility of each witness. Not everything said under oath in a court of law is necessarily the complete truth. You may now converse among yourselves and

discuss the evidence. The court will reconvene when you have unanimously reached one of the following decisions: Guilty as charged, or not guilty for reasons of *self defense*. Thankyou.

Opening Statement by the Judge

(Automatism: Severe and Moderate Conditions)

This court is now in session and will hear case number 3462:

Crown vs. Mrs Judy Richards

Members of the jury,

Mrs. Judy Richards has been charged with the second degree murder of her husband, the late Douglas Richards, under section 212 (a) of the criminal code of Canada which reads:

Culpable homicide is murder where the person who causes the death of a human being means to cause his death.

Furthermore, under section 214 (2) of the criminal code of Canada murder is first or second degree murder when it is planned and deliberate. The court recognizes that second degree murder is distinct from manslaughter in that in the case of second degree murder the act is not committed in the heat of passion or caused by sudden provocation.

At the initial arraignment on June 26, 1989, Mrs. Richards pled not guilty to the charge of second degree murder by reason of automatism. Under section 14 (2) of the criminal code of Canada, a plea of automatism can be entered by the defendant if, at the time the crime was committed, there is sufficient evidence to suggest that they were not in a state of mind conducive to forming an intent and understanding the consequences of their actions. A plea of automatism is entered in order to negate the prerequisite that the defendant knew what she was doing and would be able to consciously determine what action to take.

Your duty, members of the jury, will be to listen to all the arguments presented by both the crown prosecutor and the defense attorney before arriving at a decision as to the validity of Mrs. Richards' plea. You must remember that Mrs. Judy Richards is presumed innocent of the charges until proven otherwise and that the burden of proof is on the prosecutor. Mrs. Richards is entitled to a fair trial by her peers and you, the jury have been selected to fulfill this role. If, at any time during the trial you no

longer feel you are able to carry out your duties as a juryperson because of prejudices or unfair biases towards the accused, you are asked to inform the court immediately. We will now hear the opening statements from the prosecutor and the defense.

Opening Statement for the Prosecution.

(Automatism: Severe and Moderate Conditions)

Members of the jury

You are about to hear the case of the state vs. Mrs. Judy Richards. You will hear how she was badly abused and mistreated by her husband, the deceased Douglas Richards, for a period of 3 years. You will hear evidence presented by the defense as to how he inflicted not only physical damage upon her person, but also how he subjected her to incidents of mental torture and cruelty. You will hear how she tried to do everything in her power to stop him from beating her and how in the end, the defense will suggest that in a moment of automated behavior, she killed him. A very heart wrenching and emotional story indeed. One that I'm sure the defense will want you to keep in mind.

The prosecution concedes that Mr. Richards was not an ideal husband and that the evidence surrounding the case suggests that at times Mr. Richards lost his temper with his wife. The crown also concedes the possibility that Mr. Richards might have needed counselling to help him learn to control his temper and to communicate more effectively with his wife. But Mr. Douglas Richards is not on trial here. It is Mrs. Richards that is on trial for murder... second degree murder.... planned and deliberate homicide. She did not pursue legal means open to women in abusive situations but instead chose murder. Remember, the motive of revenge does not justify murder. What you must remember throughout this trial, and what you ultimately must use to make your final decision in this case are the facts, and once the facts of this case become known, the law is clear.

The first fact of this case is that Mrs. Richards killed her husband.. we know this by Mrs. Richards' own admission. So the question in this trial is not one of who killed Mr. Richards. The question, rather, is whether or not Mrs. Richards was legally culpable in the death of her husband. *She states that she killed him in while in a state of automatism, that she was unaware at*

the time of the murder of the consequences of her actions and consequently is not legally responsible for her husband's death. Throughout this trial the crown will maintain that Mrs. Richards mental state at the time of the murders prevented her from understanding the consequences of her actions.

However, we will show that Mrs. Richards was, in fact, fully aware of the consequences of her actions and thus fully responsible for her husband's killing. I ask you members of the jury, does someone who is unaware release the safety catch of a lethal weapon and carry it more than 45 feet to a specific room where their tormentor lies? Does someone who is unaware carefully aim this same weapon at the head of their victim? And finally, does someone who is unaware then pull the trigger on 4 separate occasions?

The crown maintains that Mrs. Richards was fully aware of her actions and of the consequences of her actions on the day of her husband's death. The crown will prove that after contemplating the death of her husband earlier that day, Mrs. Richards devised a plan to kill him. Fully aware of the situation, she waited until he was asleep, knowing at this time he would be vulnerable. Fully aware, she took the gun in her hands and released the safety. Fully aware, she proceeded to the bedroom and aimed the gun at his head. And finally, fully aware of what she was doing, she pulled the trigger of the gun once, twice, three times and finally a fourth to ensure her husband's death.

The crown will present evidence showing that Mrs. Richards was in full control of the situation at the time of the murder and consequently, with deliberate mal-intent, killed her husband in cold blood. For these reasons, members of the jury, I ask you to find Mrs. Judy Richards guilty of murder in the second degree.

Opening Statement for the Defense

(Automatism: Severe Condition Only)

Members of the jury,

My learned colleague, Mr. Lewis, has told you that Judy Richards was beaten and psychologically abused by her husband prior to his death. He has also told you that Mr. Richards could have benefited from counselling to quell his nasty temper. And finally, Mr. Lewis suggested that Judy should have used the legal system and left her husband in order to avoid being beaten and abused by him. In a normal situation and with normal individuals, even I might agree with Mr. Lewis's recommendations.

But, what the defense will show, is that the activity in the "Richards' household" was not that of a normal family. Mr. Richards had more than a "nasty temper", as suggested by my colleague. Mr. Douglas Richards treated his wife, Judy, in much the same way as political prisoners are treated in third world countries. She was literally a prisoner in her own home and consequently was subjected to what amounts to torture. Because of such treatment Judy felt she was, in a sense, at war. Hardly a normal situation.

On the night of her husbands' death, Judy Richards' life had been threatened. Her husband had told her that he was going to kill her and had shown her the rifle he was going to use to do it. I want you to imagine the psychological terror that such a threat would evoke..... Based on his past behavior Judy believed that this was no idle threat, and she was terrified, "frightened out of her wits". Why didn't she go to the police at this point? Judy will tell you why she didn't. She had previously gone to the police and did not receive the help she needed. Indeed, she had ended up in the hospital with considerable injuries after the police had left and her husband punished her for having contacted them. Consequently, Judy did not feel the police would be able to protect her from her husband in the long run or would even take her present complaint seriously.

Why didn't she just leave? Judy could not leave her situation because she had a baby, no money and no where to go. Besides, her husband had threatened to track her down and kill her even if she did leave. Members of the jury, there are many documented cases of violent husbands tracking down wives who tried to leave them and of these same husbands eventually killing their wives. Judy believed that that even if she left, her husband would eventually find her and kill her. Again, I ask you to imagine what life would be like if you had to run and hide from someone who you believed would kill you if they found you? Imagine the terror of such an existence. She was terrified for her life and felt she had no one to turn to for help.

So on the night of her husband's death, Judy's mind could no longer handle the stress of living with a man who had continually beat and threatened her and who she was sure was going to kill her on the following day. At the time of her husband's death, Judy was suffering from the physical consequences of her husband's latest attack. She was physically exhausted, feeling trapped in a hopeless situation, and terrified of her husband, terrified for her life and for the life of her baby. Members of the jury, Judy's terror ran so deep that she was not even sure that she had killed him even though she fired four bullets from his gun. She was no longer able to think rationally and to weigh out the consequences of her actions. Under the stress of the thought of death, her mind snapped.

The defense maintains that Judy Richards killed her husband while in a state of automatism. Because of the stress she was under due to her husband's violent nature, she slipped into a dissociated state. And while in this state, she did what was necessary to protect herself and her baby from her husband's wrath. She was not aware of the consequences of her actions and for this reason, members of the jury, I ask you to find Judy Richards not legally culpable for the death of her husband.

Expert Witness Testimony

**(Automatism Condition Only
Moderate and Severe Conditions)**

Dr. Johnson

Defense: Dr. Johnson, you are a psychiatrist at the Ottawa General Hospital and a consultant for Intervai House, a shelter for battered women, is that correct?

Dr. Johnson: Yes, that is correct.

Defense: Could you describe for the court what is meant by the battered woman syndrome?

Dr. Johnson: The battered woman syndrome is commonly used to help explain why a woman would stay with a man after being subjected to serious and often life threatening physical abuse. A recurrent cycle of violence perpetrated by the male has the net result of effectively trapping a woman in the relationship. In the first stage of the cycle, the tension building phase, there is a gradual building of tension characterized by name calling and possibly minor abusive incidents. This is followed by the acute battering stage in which the tension erupts and often severe physical damage occurs to the woman. In the final stage, referred to as the loving contrition stage, the batterer often apologizes for the abuse and attempts to assure his victim that it will never occur again.

Defense: What effect does this have on the woman?

Dr. Johnson: A situation has been created reminiscent of intermittent reinforcement scheduals in learning theory. What this means is that the batterers' cycle of positive and negative behaviors serves to keeps the woman in the relationship by

convincing her that if she just tried a little harder, her husband, or boyfriend would stop his negative behavior.

Defense: What is the end result of such a cycle?

Dr. Johnson: Well, initially, the woman often denies the severity of the attack and accepts her partner's apologies for the attack as genuine. What is critical to the perpetuation of violence is that the cycle of violence repeats itself over and over again with less time between incidents of battering and fewer and fewer attempts made by the batterer to apologize or make amends after the abusive incident. Furthermore, battering incidents are likely to become more and more severe over time and the woman is less and less likely to be able to feel that she can effectively cope with her abuser or the abuse. In addition, if there are children in the house, violence between the adults often has a profoundly disturbing effect. It is usually at this point that the woman attempts to end the relationship but often the means for her to do this are not available.

Defense: What do you mean, the means are not available?

Dr. Johnson: Well, often women in these situations are socially and emotionally isolated. Batterers tend to keep their victims cut off from social contacts and social support networks and ensure that they are financially dependent on them. They are often jealous and suspicious of their wife's family and friends and often try to discourage contact with them. The police and judicial system are also set up in such away as to prevent effective intervention for battered woman.

Defense: Could you give us an example of what you mean?

Dr. Johnson: Well, even if a woman does get the police to remove her husband from the house during the course of a violent episode, he is usually released the next day to await a court

hearing on assault charges. Legally, he cannot be denied entry into his place of residence, which often leaves the woman in a very dangerous position. In most situations, she has neither the financial resources nor the means of transportation to get to a woman's shelter and even if she does, chances are that the shelter will be full. We have up to a 3 week waiting period at Interval House, for example, and these are all critical cases. I would also like to mention that even if a women does manage to gain the support of the justice system and leave her husband, this does not necessarily ensure that the battering incidents will stop.

Approximately 48% of women who are murdered by their spouse are not living with their spouse at the time of their death. There have been alot of cases, for example, where the woman is severely physically battered or even killed when her husband is excercising his child visitation rights or he has simply tracked her down in an effort to persuade her, through threats and violence, to return to him.

Defense: Could you please explain to the court what, in your opinion, might lead a battered woman to kill her husband?

Dr. Johnson: Well, to begin with, violence between spouses is not as uncommon as one might think. Both batterers and battered women come from all levels of socio-economic backgrounds and education levels. In addition, there is a common misconception that battered women somehow provoke the abuse or enjoy being beaten. No woman likes to be beaten. Research to date has clearly demonstrated that there is a lack of evidence to support the notion that certain types of women are more likely to become involved in a battering relationships or that women who have been in one battering relationship are likely to become involved in another. There is no personality type that is more or less prone to become involved in a battering relationship. In essence, any one sitting here in this courtroom could potentially become the victim in a battering relationship. Some researchers have estimated that anywhere from 10 to 50% of woman living with a

man are subjected to some form of physical violence during course of the relationship. Furthermore, in cases where the violence escalates and a life is lost, in 60% of the cases it is a woman that dies.

Defense: What might lead a woman to kill her spouse?

Dr. Johnson: In cases where woman have killed their husband, the differences in size and power between a man and a woman is often the reason why woman choose a lethal means of self-defense, such as a gun. In Mrs. Richards. Richards case for example, her husband was obviously physically much larger and stronger than she was. It would have been impossible for her to defend herself from a physical attack from him without the use of a weapon. In addition, women who have been subjected to years of violent behavior from their partner often come to see their partners as omnipotent and invincible, much like cases of political prisoners. They come to see their very existence as being in the hands of their abuser. Afterall, their partner has managed to have total control over their lives for a number of years. In cases such as this, a woman's mental state is often confused and her ability to think clearly is distorted.

As to your question as to why a battered woman would kill her husband, there are several factors that seem to stand out in these situations. For example, the mother's need to protect a child, the presence of weapons in the house, threats of retaliation from the batterer should the woman attempt to escape. In the present case, all of these factors were involved.

Defense: You know though Dr. that Mrs. Richards is standing trial for the murder of her husband...*and that she has entered a plea of automatism.* In your opinion Dr., what was Mrs Richards mental state at the time of the her husbands death?

Dr. Johnson: Well, I would have to say that at the time she shot her husband, Mrs. Richards was in a state of automatism. She did not have her wits about her and in essence, she snapped.

Defense: Could you explain to the court exactly what that term, automatism means Dr. Johnson?

Dr. Johnson: Well, what that means is that Mrs. Richards was not in a normal state of mind at the time of her husband's death. A state of automatism can be brought on by a number of various factors. In Mrs. Richards case possibly the stress of her relationship, the baby's illness and particularly the head injuries she sustained disrupted her ability to cope effectively with the situation. Her rational mind could no longer deal with the extremely volatile situation she found herself in. As a result she suffered from a dissociated reaction and slipped, unconsciously into an altered state of mind. For the Mrs. Richards we have sitting here, that early morning in June never really happened. She was like a robot, acting without thinking, and that is why she maintains that she had no choice but to kill her husband. In fact, it also explains why she can't remember firing the bullets in the gun and why Officer Burke reported that she looked dazed and did not seem to be remorseful. Mrs. Richards also reported that she irrationally believed that her husband could still somehow get to her even after he was dead.....obviously not the conclusions of a rational mind. In fact, considering all the circumstances of her case, I have no doubt but that Mrs. Richards was in an altered state of consciousness at the time of the killing.

Defense: Why do you say that Dr?

Dr. Johnson: Well, here we have a woman that was alone in a new city and had no social support from either friends or family. Instead, she was dependent on an abusive man for both emotional and financial support. According to Mrs. Richards' statements, her husband had subjected her to mental and psychological torture for

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a period of three years. On the day of her husband's death she wished her husband out of her life but immediately upon having such a thought, repressed it. She couldn't acknowledge the anger she felt towards him or for her situation. In my interviews with her and in her testimony here in court not once did she suggest that she was angry at him. In fact, though, she was like a walking time bomb... just waiting to explode. She had received a severe blow to her head only the night before, which can often result in bizarre and uncharacteristic behavior. In addition, she had consumed alcohol, something she did not usually do. All these factors, the head injury, the repressed anger, the alcohol, together they had the effect of producing a different woman than the one we see sitting here.

Defense: No further questions your honor.

Cross - Examination of Dr. Johnson

(Automatism Condition Only
Moderate and Severe Conditions)

Prosecution: Dr. You stated that Mrs. Richards slipped into a dissociated state that eventually resulted in the murder of her husband. Is that correct?

Dr. Johnson: Yes, it is.

Prosecution: Dr. Are there any physical tests that you used to determine that Mrs. Richards was in a dissociated state when she killed her husband?

Dr. Johnson: No. No such physical tests exist.

Prosecution: Was Mrs. Richards in a dissociated state at the time you examined her?

Dr. Johnson: No. When I interviewed her she was in a normal state of mind, but, in my opinion, she had been in a dissociated state at the time she killed her husband.

Prosecution: Alright Dr. If there are no physical tests for determining whether Mrs. Richards was in a dissociated state and if she was not in such a state when you interviewed her, how did you arrive at the diagnosis that she was in a dissociated state at an earlier time before you met her?

Dr. Johnson: I made my diagnosis based on the events leading up to the night, the reports of the arresting officer and Mrs. Richards' own statements regarding the reconstruction of the events that evening.

Prosecution: *Could you please outline for the court some of the behaviors that characterize the state of automatism?*

Dr. Johnson: *Yes, certainly. Automatism is usually associated with memory loss, dazed appearance, inability to think coherently and, frequently, uncharacteristic behavior.*

Prosecution: *Is it possible to fake automatism?*

Dr. Johnson: *Oh, I think it's extremely unlikely unless an individual was highly sophisticated and had an indepth knowledge of the medical and clinical profiles associated with the state.*

Prosecution: *In your experience, can an individual pretend to forget something?*

Dr. Johnson: *Yes.*

Prosecution: *Is it possible for individuals to appear dazed, even if they are not dazed?*

Dr. Johnson: *Well yes.*

Prosecution: *Is it possibly to pretend to be confused, even if you really aren't?*

Dr. Johnson: *Of course.*

Prosecution: *And do people ever do things that they have never done before.*

Dr. Johnson: *Well, I suppose it happens but...*

Prosecution: *And yet Dr. you would have us believe that it is difficult, if not impossible to fake being in a dissociated state and*

yet you just finished stating that every single behavior you listed as being indicative of a dissociated state could be faked. Is that not true?

Dr. Johnson: Yes. But I still maintain that Mrs. Richards was in a dissociated state at the time of her husband's death. It is not just the observation of a single behavior, but the combination and the presence of all those behaviors that tend to confirm a diagnosis.

Prosecution: Are there other experts in your field who would disagree with you?

Dr. Johnson: There is always some healthy debate in psychiatry but most professionals recognize dissociated states as a psychiatric illness.

Prosecution: You mentioned an inability to think coherently as one of the primary symptoms of dissociated states. Is that true?

Dr. Johnson: Yes.

Prosecution: And yet Mrs. Richards had the presence of mind to ask the arresting officer about the welfare of her child. Would you consider her maternal concern as evidence that she was thinking in a coherent manner?

Dr. Johnson: Well yes... but that was sometime after the incident, and at that time she was probably coming out of the dissociated state.

Prosecution: Could it be possible that Mrs. Richards is forgetting the events of June 26 in order to escape punishment for the crime?

Dr. Johnson: In her case I think that is highly unlikely

Prosecution: But it is possible, is it not Dr?

Dr. Johnson: Yes, but I think it is extremely unlikely.

Prosecution: Thank you Dr. Johnson,.....Now, you also stated that Mrs. Richards had "snapped" at the time of the murder and thus was "not in control of her wits" because of the stress she under after undergoing a physical attack. Is that true?

Dr. Johnson: Yes.

Prosecution: She had been severely beaten on other occasions though, and had not "snapped". How do you explain that?

Dr. Johnson: Well, according to Mrs. Richards reports, the attacks she received on that particular weekend were particularly violent. She felt that her husband was unusually aggressive and that his behavior had reached a turning point..... that this time he really meant to kill her.

Prosecution: Is it not possible that Mrs. Richards had simply had enough and decided to seek revenge on her husband, thus planned his murder, carried it out and concocted this story as a cover?

Dr. Johnson: I think that is highly unlikely.

Prosecution: Yet you did say that Mrs. Richards is an intelligent woman.... so it could be possible could it not DR?

Dr. Johnson: Yes, but I think it is extremely unlikely.

Prosecution: Thank you DR. That will be all.

Closing Statements for the Defense

(Automatism: Severe Condition Only)

Members of the jury

A person cannot be found legally guilty of murder if at the time, they acted without will or reasoned intention. Now the prosecution will suggest to you that Judy Richards killed her husband while in a normal state of mind and then concocted the story of dissociation in order to escape punishment. However, when the evidence is examined carefully and dispassionately, it becomes clear that the prosecution has no case. They are grasping at straws. Mrs. Richards was obviously not in a normal state of mind when she killed her husband. She did not kill him willfully or with reasoned intention. Instead. The killing resulted from the fact that her mind had snapped. Mrs. Richards was in a dissociated state at the time of the killing and therefore was not responsible for the death of her husband.

Members of the jury. Think back to the evidence of the arresting officer. Remember him stating that she was dazed, that she failed to respond to his order to drop the gun, and that she seemed so obviously dazed that he felt safe in walking up to her and taking the gun out of her hands. Members of the jury, does that sound like a women in a normal state of mind? No, of course not.

Remember also Mrs. Richards own testimony and the testimony of the Dr. who examined her. Mrs. Richards stated that she was so disoriented that she could not remember much of what happened. She couldn't ever remember firing the bullets into her husbands body. In fact, all she remembered was walking, like in a dream, watching herself do things but feeling like it was not really her doing them.

Although Mr. Douglas Richards is not on trial here we must take into account his culpability in this case. I ask you to consider the example of a drunk driver. If an individual chooses to get into a vehicle while in a state of extreme intoxication and then drives

that vehicle into a pole.... we don't blame the pole for his death, do we? No ... the individual is held accountable for their situation. If Mr. Richards had been a kind and considerate man, would Judy's mind have snapped? Of course not. Mr. Richards had repeatedly threatened her life and had shown her the weapon he was going to use to kill her. He terrorized her. Judy Richards mind could take no more. Does a normal person who plans a murder call the police afterwards and then wait in a daze for them to come and arrest them? Does all this sound like someone who is in a normal state of mind? Of course not. Instead, it sounds like someone who, after years of terrible abuse, after years of overwhelming fear, finally snapped. When her husband actually threatened to kill her the next day, Mrs. Richards mind could take no more. Already frightened, beaten and exhausted, unable to see any escape, facing what she believed to be certain death at the hands of a vicious sadistic husband, her mind cracked, she lost consciousness and will and... while in a dissociated state her unconscious mind took over. Mrs. Richards did not plan her husbands death anymore than a sleepwalker is responsible for walking into the road, or that you or I are responsible for things dreamt about at night.

Did Mrs. Richards, an unsophisticated women who never went beyond high school fake the highly complex psychiatric syndrome of dissociation so effectively that she was able to fool an experimental psychiatrist with years of clinical experience? No, of course she didn't. She didn't have to fake anything members of the jury because she was in a dissociated state.

And it is for that reason I ask you to find Judy Richards not guilty of murder by reason of automatism. Thankyou.

Closing Statements for the Prosecution

(Automatism: Moderate and Severe Conditions)

Members of the jury.

When we look closely at this case it becomes clear that Mrs. Richards killed her husband intentionally. Certainly Mrs. Richards had reason to fear her husband and to be angry with him but because she was fearful and angry at her husband, and because she wanted the relationship to end, she waited for him to fall asleep and then deliberately took his loaded gun, released the safety catch, went into the bedroom aimed the gun at his head and pulled the trigger, aimed the gun again and pulled the trigger three more times. Members of the jury, I want you to remember that revenge does not justify murder.

Now, Mrs. Richards was obviously very upset by what she had done. Of course she was in a daze when the police men arrived. Normal people who see someone killed in an automobile accident are sometimes in a daze for a period of time afterwards. Being dazed is a normal reaction to a horrible and upsetting event. This doesn't mean that being in a daze caused the upsetting event however. Being dazed can simply be a consequence of having committed a terrible deed.

Members of the jury, automatism is defined as actions that occur without purpose or reasoned intention. But Mrs. Richards actions obviously had a purpose and that purpose was to eliminate her husband whom she hated. Mrs. Richards actions also show clear deliberation and intention. Her own testimony indicated that earlier that day before the murder, she thought about a life without her husband. Members of the jury. Thinking about someone being out of your life forever, and then killing that same person is evidence of planning and premeditation. It means that she formed the intention to kill, and this indicates that the killing was a deliberate act.

Members of the jury, psychiatry is a young science and it includes many more opinions than hard facts. Psychiatrists certainly argue among themselves over what is or is not an appropriate diagnosis. The diagnosis of dissociation is among the most controversial in psychiatry and as Dr. Johnson himself testified, some psychiatrists believe the diagnosis is inappropriate and should not be used. The Dr. also testified that there are no objective tests that can be used to tell when someone is in a dissociated state and that Mrs. Richards was not in a dissociated state when he interviewed her. How did he know then that she was in a dissociated state at the time the crime was committed?

Obviously, the diagnosis of dissociation would be on shaky grounds even at the best of times. For instance, the Dr. testified that Mrs. Richards had no prior history of serious mental disorders and no prior history of entering into dissociated states. Members of the jury, isn't it just a little bit too convenient that the one time Mrs. Richards becomes dissociated she kills her husband?

According to the Dr.'s testimony, Mrs. Richards exhibited three symptoms that could be used to infer a dissociated state. First, she appeared dazed to the police that arrested her. But remember, the police saw her only after she had killed her husband and being dazed after a horrible event is a normal reaction. No evidence was presented whatsoever to show that Mrs. Richards was dazed before and during the killing. Second, Mrs. Richards claimed that her actions did not feel as if they were her own as she walked into the bedroom with the gun. But members of the jury, people who are about to do something very frightening or out of the ordinary often feel as if their actions are not their own. Furthermore, the only evidence we have that Mrs. Richards actually felt this way is Mrs. Richards' own testimony. Obviously this is questionable because Mrs. Richards is on trial for murder and therefore has every reason to say whatever she believes will free her. Mrs. Richards' final symptom was her reported memory loss. Again, we have only Mrs. Richards' word that she can't remember and her word is obviously suspect. How

convenient that Mrs. Richards just happens to lose her memory of the fact that she fired the gun that killed her husband.

So members of the jury, it is for these reasons that I ask you to find Mrs. Richards guilty as charged in the second degree murder of her husband. Thank you.

Judges Closing Statements

(Automatism: Moderate and Severe Conditions)

Members of the jury

You have heard all the arguments presented by both the prosecutor and the defense attorney and are now required to come to a decision regarding Mrs. Richards plea of *automatism*. To reiterate: Mrs. Richards has been charged with second degree murder in the death of her husband, Mr. Douglas Richards.

The defense counsel maintains that Mrs. Richards was in a dissociated state at the time of her husband's death. You have heard testimony that Mrs. Richards was dazed after the incident, that she had suffered memory impairment and that she felt as if she was not herself. Automatism is asserted in order to negate the requisite mental state of voluntariness for commission of a crime. Consequently, the defense counsel has entered the plea of not guilty by reason of automatism.

The prosecution, on the other hand, maintains that Mrs. Richards was in full control of her mental capacities and was thus not only able to form criminal intent, but carried out that intent knowing the consequences of such actions which ultimately resulted in the death of her husband. According to the theory offered by the prosecution, Mrs. Richards had offered the plea of automatism in order to avoid punishment for the crime.

In deciding the verdict you, the members of the jury, have two options available to you. First, you can find Mrs. Richards guilty as charged. In this case I will impose sentencing as dictated by law. I have no choice except to do so. Or you can find Mrs. Richards not guilty by reason of *automatism*.

I will remind you that a plea of automatism can be entered by the defendant if, at the time the crime was committed, there is sufficient evidence to suggest that they were not in a state of mind conducive to forming an intent and understanding the consequences of their actions.

All jury members are reminded that in order to find the accused guilty, they must be certain that guilt has been proven beyond a reasonable doubt. Now, reasonable doubt concerning guilt is not merely the possibility of innocence. A reasonable doubt is a doubt that would cause a reasonable and prudent person in the graver and more important affairs of life to pause and to hesitate to act upon the truth of the matter charged.

Proof beyond a reasonable doubt is not proof beyond all possible or imaginary doubt. Instead, it is proof that precludes every reasonable hypothesis except the hypothesis that it tends to support. Proof beyond a reasonable doubt is proof to a moral certainty. Proof beyond reasonable doubt is proof strong enough to convince reasonable people who have examined the evidence before them that no other reasonable conclusion is possible.

If, after hearing all the evidence you possess reasonable doubt, you must find the accused not guilty. If, on the other hand, you as a juror believe that guilt has been established beyond a reasonable doubt, that is you are satisfied to a moral certainty and are convinced, you must find the accused guilty as charged.

Members of the jury. It is important that you review carefully all of the evidence that has been presented. You should think carefully about the testimony that you have heard and you must make judgements as to the credibility of each witness. Not everything said under oath in a court of law is necessarily the complete truth. You may now converse among yourselves and discuss the evidence. The court will reconvene when you have reached one of the following decisions: Guilty as charged or not guilty by reason of *automatism*. Thank you.

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* Only testimony that differs from either the Self Defense Severe Abuse or the Automatism Severe Abuse Conditions is presented.

** Testimony in the Moderate Abuse Conditions that differs from the Severe Abuse Conditions appears in italics.

Opening Statement by the Judge

(Psychological Self Defense: Severe and Moderate Conditions)

This court is now in session and will hear case number 3462: Crown vs. Mrs Judy Richards.

Members of the jury,

Mrs. Judy Richards has been charged with the second degree murder of her husband, the late Douglas Richards, under section 212 (a) of the criminal code of Canada which reads:

Culpable homicide is murder where the person who causes the death of a human being means to cause his death.

Furthermore, under section 214 (2) of the criminal code of Canada, murder is first or second degree murder when it is planned and deliberate. The court recognizes that second degree murder is distinct from manslaughter in that in the case of second degree murder the act is not committed in the heat of passion or caused by sudden provocation.

At the initial arraignment on June 26, 1989, Mrs. Richards pled not guilty to the charge of second degree murder by reason of psychological self-defense. In order for the plea of psychological self-defense to be accepted, Mrs. Richards must have believed that she was in danger of extreme psychological injury at the time of the incident. Extreme psychological injury is taken to mean, and I quote, " ... gross and enduring impairment of one's psychological functioning which significantly limits the meaning and value of one's physical existence". Unquote.

Your duty, members of the jury, will be to listen to all the arguments presented by both the crown prosecutor and the defense attorney before arriving at a decision as to the validity of Mrs. Richards' plea. You must remember that Mrs. Judy Richards is presumed innocent of the charges until proven otherwise and that the burden of proof is on the prosecutor. Mrs. Richards is entitled to a fair trial by her peers and you, the jury have been selected to fulfill this role. If, at any time during the trial you no

longer feel you are able to carry out your duties as a juryperson because of prejudices or unfair biases towards the accused, you are asked to inform the court immediately. We will now hear the opening statements from the prosecutor and the defense.

Opening Statement for the Prosecution.

(Psychological Self Defense: Severe and Moderate Conditions)

Members of the jury

You are about to hear the case of the crown vs. Mrs. Judy Richards. You will hear how she was badly abused and mistreated by her husband, the deceased Douglas Richards, for a period of 3 years. You will hear evidence presented by the defense as to how he inflicted not only physical damage upon her person, but also how he subjected her to incidents of mental torture and cruelty. You will hear how she tried to do everything in her power to stop him from beating her and how in the end, the defense will suggest that the only way she found to stop him from psychologically damaging her was to shoot him. A very heart wrenching and emotional story indeed. One that I'm sure the defense will want you to keep in mind.

The prosecution concedes that Mr. Richards was not an ideal husband and that the evidence surrounding the case suggests that at times Mr. Richards lost his temper with his wife. The crown also concedes the possibility that Mr. Richards might have needed counselling to help him learn to control his temper and to communicate more effectively with his wife. But Mr. Douglas Richards is not on trial here. It is Mrs. Richards that is on trial for murder... second degree murder.... planned and deliberate homicide. The motive of revenge does not justify murder. What you must remember throughout this trial, and what you ultimately must use to make your final decision in this case are the facts, and once the facts of this case become known, the law is clear.

The first fact of this case is that Mrs. Richards killed her husband. We know this by Mrs. Richards own admission. So the question in this trial is not one of who killed Mr Richards. The question, rather, is whether or not Mrs. Richards was legally culpable in the death of her husband. *She states that she killed him for reasons of psychological self defense. But I'll ask you,*

jurors, to keep in mind throughout this trial the definition of psychological self-defense. Mrs. Richards states that she believed that she would suffer enduring impairment of her psychological functioning which would ultimately devalue the meaning of her life.

Jurors, could Mrs. Richards not have preserved the sanctity of her psychological health by leaving Mr. Richards? Was the only course of action open to her to murder her husband in his sleep? Of course not....Mrs. Richards had other alternatives. She could have gone to the police, or filed for divorce or even left the province to start a new life elsewhere. If every couple who felt like their marriage was unfulfilling and devaluing the meaning of their life took their partner's life, I suggest to you that spousal homicides would increase 1000 fold.

I intend to prove to you that Mrs. Richards psychological well being was not in danger of enduring impairment and I will do this by examining the facts of the case. Now, as I stated before, we know that Mrs. Richards killed her husband and.....we know that she killed him while he was asleep. Knowing this fact suggests to me that Mrs. Richards could have left the house at this time...maybe even left her husband for good. Second, even if Mrs. Richards could not have left her husband at that point in time, I will present evidence to suggest that Mrs. Judy Richards could have ended the relationship before the conflict between this couple became so severe that Mrs. Richards felt she had to kill her husband.

The psychological self defense plea offered by Mrs. Richards is not appropriate. Mrs. Richards, by her own admission, had thought about ridding herself of her husband at least 12 hours prior to the act. It could hardly be said either, that Mrs. Richards was in danger of extreme psychological injury at the time of the shooting. Afterall, psychological injury constitutes gross and enduring impairment of one's psychological functioning. Obviously Mrs. Richards was able to plan and to carry out the murder of her husband....hardly the actions of a woman suffering from gross and enduring psychological impairment.....if that had been the case,

she more likely would have taken her own life. Finally, there are many legal alternatives open to women in abusive marital situations and Mrs. Richards could have pursued these routes instead of cutting her husband in two with a semi-automatic rifle.

The crown will present evidence showing that Mrs. Richards was in full control of the situation at the time of the murder and consequently, with deliberate mal-intent, killed her husband in cold blood. For these reasons, members of the jury, I ask you to find Mrs. Judy Richards guilty of murder in the second degree.

Opening Statement for the Defense

(Psychological Self Defense: Severe Condition Only)

Members of the jury,

My learned colleague, Mr. Lewis, has told you that Judy Richards was beaten and psychologically abused by her husband prior to his death. He has also told you that Mr. Richards could have benefited from counselling to help him to quell his nasty temper. And finally, Mr. Lewis suggested that Judy should have used the legal system or simply left her husband in order to avoid being beaten and abused by him. In a normal situation and with normal individuals, even I might agree with Mr. Lewis's recommendations.

But, what the defense will show, is that the activity in the "Richards' household" was not that of a normal family. Mr. Richards had more than a "nasty temper", as suggested by my colleague. Mr. Douglas Richards treated his wife, Judy, in much the same way as political prisoners are treated in third world countries. She was literally a prisoner in her own home and consequently was subjected to what amounts to torture. Because of such treatment Judy felt she was, in a sense, at war. Hardly a normal situation.

On the night of her husband's death, Judy Richards' life had been threatened. Her husband had told her that he was going to kill her and had shown her the rifle he was going to use to do it. I want you to imagine the psychological terror that such a threat would evoke..... *Judy believed that she would be destroyed, if not physically, then certainly psychologically, life had lost any meaning for her.* Why didn't she go to the police at this point? Judy will tell you why she didn't. She had previously gone to the police and did not receive the help she needed. Indeed, she had ended up in the hospital with considerable injuries after the police had left and her husband punished her for having contacted them. Consequently, Judy did not feel the police would be able to protect

her from her husband in the long run or would even take her present complaint seriously.

Why didn't she just leave? Judy could not leave her situation because she had a baby, no money and no where to go. Besides, her husband had threatened to track her down and kill her even if she did leave. Members of the jury, there are many documented cases of violent husbands tracking down wives who tried to leave them and of these same husbands eventually killing their wives. Judy could not face a life of running and hiding from a man that she believed would ultimately kill her. Again, I ask you to imagine what life would be like if you had to run and hide from someone who you believed would kill you if they found you? Imagine the terror of such an existence. What kind of life would that be? Judy believed her husband's threats. She was terrified for her life and felt she had no one to turn to for help.

At the time of her husband's death, Judy was suffering from the physical consequences of her husband's latest attack. She was physically exhausted, feeling trapped in a hopeless situation, and terrified of her husband. *She was not in control of her life, she was not allowed to have a say in anything she did; thought; or felt. The only real alternative open to her was suicide, and I ask you members of the jury, would that be fair? Should she have to end her own life because the man she was involved with took away any meaning that life held for her? No of course not. Judy knew that in order for life to have any meaning for her, she had to had to take her husband's life.*

The defense maintains that Judy Richards killed her husband for reasons of psychological self defense. Her life had ceased to have any meaning and she was in danger of suffering from gross and enduring impairment of her psychological functioning if he continued to be a part of that life. For this reason, I ask you to find Judy not guilty by reason of psychological self defense.

Expert Witness Testimony

(Psychological Self Defense Plea Only: Moderate and Severe Conditions)

Dr. Johnson

Defense: Dr. Johnson, you have been called as an expert witness on the battered woman syndrome on behalf of Mrs. Judy Richards who has been charged with the second degree murder of her husband. Could you please state your credentials for the court.

Dr. Johnson: I received my license to practice psychiatry from the University of New Hampshire where I completed extensive investigations into issues surrounding family violence with Dr. Lynn MacDonald. I have also worked with John Williams, a reknown spokesperson and researcher into the plight of battered woman. For the past three years I have been head of the Family Violence Unit at the Ottawa General Hospital and I am also a consultant for Interval House, a shelter for battered women here in Ottawa.

Defense: Could you describe for the court what is meant by the battered woman syndrome?

Dr. Johnson: The battered woman syndrome is commonly used to help explain why a woman would stay with a man after being subjected to serious and often life threatening physical abuse. A recurrent cycle of violence perpetrated by the male has the net result of effectively trapping a woman in the relationship. In the first stage of the cycle, the tension building phase, there is a gradual building of tension characterized by name calling and possibly minor abusive incidents. This is followed by the acute battering stage in which the tension erupts and often severe physical damage occurs to the woman. In the final stage, referred to as the loving contrition stage, the batterer often apologizes for

the abuse and attempts to assure his victim that it will never occur again.

Defense: What effect does this have on the woman?

Dr. Johnson: A situation has been created reminiscent of intermittent reinforcement schedules in learning theory. What this means is that the batterer's cycle of positive and negative behaviors serves to keep the woman in the relationship by convincing her that if she just tried a little harder, her husband, or boyfriend would stop his negative behavior.

Defense: What is the end result of such a cycle?

Dr. Johnson: Well, initially, the woman often denies the severity of the attack and accepts her partner's apologies for the attack as genuine. What is critical to the perpetuation of violence is that the cycle of violence repeats itself over and over again with less time between incidents of battering and fewer and fewer attempts made by the batterer to apologize or make amends after the abusive incident. Furthermore, battering incidents are likely to become more and more severe over time and the woman is less and less likely to be able to feel that she can effectively cope with her abuser or the abuse. In addition, if there are children in the house, violence between the adults often has a profoundly disturbing effect. It is usually at this point that the woman attempts to end the relationship but often the means for her to do this are not available.

Defense: What do you mean, the means are not available?

Dr. Johnson: Well, often women in these situations are socially and emotionally isolated. Batterers tend to keep their victims cut off from social contacts and social support networks and ensure that they are financially dependent on them. They are often jealous and suspicious of their wife's family and friends and often try to

discourage contact with them. The police and judicial system are also set up in such away as to prevent effective intervention for battered woman.

Defense: Could you give us an example of what you mean?

Dr. Johnson: Well, even if a woman does get the police to remove her husband from the house during the course of a violent episode, he is usually released the next day to await a court hearing on assault charges. Legally, he cannot be denied entry into his place of residence however, which often leaves the woman in a very dangerous position. In most situations, she has neither the financial resources nor the means of transportation to get to a woman's shelter and even if she does, chances are that the shelter will be full. We have up to a 3 week waiting period at Interval House, for example, and these are all critical cases. I would also like to mention that even if a women does manage to gain the support of the justice system and leave her husband, this does not necessarily ensure that the battering incidents will stop.

Approximately 48% of women who are murdered by their spouse are not living with their spouse at the time of their death. There have been a lot of cases, for example, where the woman is severely physically battered or even killed when her husband is exercising his child visitation rights or he has simply tracked her down in an effort to persuade her, through threats, to return to him.

Defense: Could you please explain to the court what, in your opinion, might lead a battered woman to kill her husband?

Dr. Johnson: Well, to begin with, violence between spouses is not as uncommon as one might think. Both batterers and battered women come from all levels of socio-economic backgrounds and education levels. In addition, there is a common misconception that battered women somehow provoke the abuse or enjoy being beaten. No women likes to be beaten. Research to date has clearly

demonstrated that there is no evidence to support the notion that certain types of women are more likely to become involved in a battering relationships or that women who have been in one battering relationship are likely to become involved in another. There is no personality type that is more or less prone to become involved in a battering relationship. In essence, any one sitting here in this courtroom could potentially become the victim in a battering relationship. Some researchers have estimated that anywhere from 10 to 50% of woman living with a man are subjected to some form of physical violence during course of the relationship. Furthermore, in cases where the violence escalates and a life is lost, in 60% of the cases it is a woman that dies.

Defense: What might lead a woman to kill her spouse?

Dr. Johnson: In cases where woman have killed their husband, the differences in size and power between a man and a woman is often the reason why woman choose a lethal means of self defense, such as a gun. In Mrs. Richards' case for example, her husband was obviously physically much larger and stronger than she was. It would have been impossible for her to defend herself from a physical attack from him without the use of a weapon. In addition, women who have been subjected to years of violent behavior from their partner often come to see their partners as omnipotent and invincible, much like cases of political prisoners. They come to see their very existence as being in the hands of their abuser. Afterall, their partner has managed to have total control over their lives for a number of years. In cases such as this, a woman's mental state is often confused and her ability to think clearly is distorted.

As to your question as to why a battered woman would kill her husband, there are several factors that seem to stand out in these situations. For example, the mother's need to protect a child, the presence of weapons in the house, threats of retaliation from the batterer should the woman attempt to escape. In the present case, all of these factors were involved.

Defense: Dr., You examined my client, Mrs. Richards shortly after she was charged with the murder of her husband. Is that correct?

Dr. Johnson: Yes.

Defense: In your opinion Dr. What was the mental state of Mrs. Richards at the time you examined her?

Dr. Johnson: Well, she appeared to be of average intelligence, coherent and capable of logical thought. She manifested some symptoms of depression; minimal affect, thoughts of suicide..

Defense: In your opinion, Dr. Johnson, is Mrs. Richards suffering from the battered woman syndrome?

Dr. Johnson: I have interviewed Mrs. Richards at great length and I have no hesitation in stating that she was, indeed, a battered woman.

Defense: Given her condition at the time of her husbands death, would you give the court your assessment on the plausibility of her plea.

Dr. Johnson: *After reviewing the patterns of violence between this couple I believe that Mrs. Richards' life had lost all meaning for her. She was in a situation that she saw as being totally hopeless and she could see no way out of it. She is still suffering emotionally and trying to regain some control over her life and if it wasn't for her child, I don't think Judy would have made it. Mr. Richards very methodically and effectively stripped away any sense of personal autonomy, self-respect or pride that Judy had. Consequently, I believe that Judy did what she thought was necessary to protect the very essence of her being from total annihilation.*

Defense: No further questions your honor.

Cross -Examination of Dr. Johnson

**(Psychological Self Defense Condition
Moderate and Severe Conditions)**

Prosecution: Dr. Johnson you have stated that your practice and training has been almost exclusively with battered women or victims of family violence. Is that true?

Dr. Johnson: Yes.

Prosecution: Would you say, Dr. Johnson that you feel a great deal of empathy and sympathy for victims of family violence, particularly the women and children who have suffered at the hands of a male batterer?

Dr. Johnson: Yes, I do.

Prosecution: Could it not also be true then, Dr. Johnson that you are maybe a little bit too biased when reviewing these cases? After all, women such as Mrs. Richards. Richards have already suffered severe physical and emotional damage at the hands of their abusers, why should she be punished any further?

Dr. Johnson: I try to be open minded.

Prosecution: Ok. Dr. Johnson. I would like to ask you about your interviews with Mrs. Richards. You stated that she is indeed a battered woman. Did you talk with anybody else to corroborate her stories?

Dr. Johnson: I think the police reports and the medical examiner have provided plenty of evidence to corroborate her story.

Prosecution: Dr Johnson, to address your testimony that Mrs. Richards is a battered women. Let us consider a little more

carefully exactly what the syndrome of the battered woman is. In your opinion, would a woman who has been hit once be considered a battered woman?

Dr. Johnson: It would depend on the circumstances surrounding the incident.

Prosecution: Ok. Her husband is jealous and finds a man's phone number in her pocket. Upon questioning her he loses his temper and hits her, then apologizes. Is she a battered woman?

Dr. Johnson: I would still need more information.

Prosecution: But DR. The three stages of the battered woman syndrome that you mentioned are all evident in the example I gave you. There is a tension build up, an acute incident of violence and an apology afterward. What more evidence do you need. It seems to me that possibly the syndrome isn't as clearly defined as you would have us believe.... As a matter of fact, Dr. isn't it true that several notable researchers in the family violence field don't agree with the idea that a battered women syndrome exists?

Dr. Johnson: Well, yes but differences of opinion exist largely at a practical level. The vast majority of experts in the field agree that it is not the woman who is to blame in situations of family violence but rather it is the existing social structure that maintains power predominately in male hands that needs to be altered. The battered woman syndrome is merely a way of defining a segment of our population that has largely been misunderstood and ignored for a long time.

Prosecution: You also stated Dr. that 50% of women in a cohabiting relationship potentially could suffer physical violence at some time. Is that true?

Dr. Johnson: Yes.

Prosecution: and you also stated that because of the size difference between men and women that a woman must often resort to using a lethal weapon to repel her attacker. Is that true?

Dr. Johnson: Yes.

Prosecution: Does that mean, then Dr., that half of the women in our country are justified in killing their spouse?

Dr. Johnson: Of course not. It does mean that the lethal potential is there though unless we do something to help these women.

Prosecution: Well Dr. Johnson, you also stated that you are a consultant at Interval House for battered women. Is that correct?

Dr. Johnson: Yes.

Prosecution: Were any of the battered women at Interval House severely beaten by and cruelly treated by their husband?

Dr. Johnson: Yes. Some of them suffered severe abuse.

Prosecution: Were any of those women beaten so severely that they had bones broken or teeth knocked out?

Dr. Johnson: Yes. Some were certainly beaten that bad.

Prosecution: Did the husbands of any of those women ever threaten to kill them?

Dr. Johnson: Yes. It is not uncommon for battering husbands to threaten their wife with death.

Prosecution: *Did any of these women feel like their lives had lost meaning and that suicide was the only way out?*

Dr. Johnson: *Yes. Certainly depression and suicide tend to plague the majority of women in abusive situations for a long time.*

Prosecution: Dr. You have just testified that on a daily basis you worked with women who, just like Judy Richards, were repeatedly and severely beaten by their husbands, suffered broken bones, were threatened with death by their husbands and who were severely emotionally traumatized. Now Dr., none of the severely abused women you worked with at Interval House killed their husband, did they?

Dr. Johnson: No

Prosecution: In other words, despite being diagnosed by you as suffering from the battered women syndrome, all of these women managed to leave their situation without killing anyone.

Dr. Johnson: Yes, but the potential for violence was certainly there in many of these cases. Many of these women were extremely fortunate to have escaped from their situations. In addition, Mrs. Richards case was indeed, extreme.

Prosecution: But despite any such potential, these battered women realized that killing their husband was not the only option available to them and they left their situation without killing anyone. Isn't that right?

Dr. Johnson: Yes.

Prosecution: So Dr. most battered women can manage to successfully leave a battering relationship without killing their husband. Isn't that true?

Dr. Johnson: Yes.

Prosecution: No further questions your honor.

Closing Statement for the Defense

(Psychological Self Defense: Severe Condition Only)

Members of the jury

Although Mrs. Richards is on trial for murder, she has really been the victim of an insidious crime. A crime that has been documented over and over again, but has only recently come under public scrutiny. That crime, members of the jury, is wife abuse. The home has always been considered a sanctuary from the often cold and cruel outside world.... A haven from the miseries we hear about daily on the local news and from our friends and neighbors. But we have a case here, a tragic case, where the home was not a refuge, but instead a place where insult and physical punishment was handed out on a daily basis. The Richards' home was dominated by a cruel and sick man, a man who instead of treating his wife with love and respect, treated her with torment and cruelty. He beat her for not bringing home the groceries on time, he beat her and hospitalized her with broken bones, he beat her and caused her to miscarry,.....He terrorized Judy to such an extent that she thought she would be better off dead....certainly life had lost any meaning for her and if it hadn't been for the concern she felt for her child, Judy might very well not be with us here today.

And so, when the strain of trying to maintain her sanity became too much, when the continuation of her life lost any meaning, *she protected herself, the very essence of her being, her psychological self, by taking her tormentor's life. Did she have a reasonable belief that her psychological well being was extreme danger at the time of her husband's death?* He had told her that he was going to kill her and had threatened her with the very weapon he was going to use. Members of the jury, *we all have the right to protect our psychological integrity. The concept of psychological self defense enshrines a fundamental principle of justice in our land. The principle is that the value of life lies not in*

mere physical existence... but rather in the capacity to experience that existence in a psychologically meaningful and rewarding fashion.

Although Mr. Douglas Richards is not on trial here we must take into account his culpability in this case. I ask you to consider the example of a drunk driver. If an individual chooses to get into a vehicle while in a state of extreme intoxication and then drives that vehicle into a pole.... we don't blame the pole for his death, do we? No ... the individual is held accountable for their situation. If Mr. Richards had been a kind and considerate man, would Judy have used a gun on him? Of course not. All she wanted was to lead a life that held some meaning for her... and Mr. Richards took the possibility of such a life away from her. He had repeatedly threatened her life and had shown her the weapon he was going to use. He terrorized her. Judy Richards has stated that she believed she just couldn't go on.

Could she have gone to the police? She had gone to the police once before and had ended up in the hospital with a broken arm, broken ribs, severe bruises and facial lacerations that required stitches..... And even if they could have prevented an attack on her the next day, what about the next attempt and the next and the next.... There were certainly no signs that Mr. Richards' behavior was getting any better. Indeed, the viciousness and severity of his attacks were becoming worse. The police could not have helped her unless they were prepared to maintain an armed guard around her for the rest of her life. And I ask you... what kind of life would that be?

And so instead of becoming little more than a punching bag for her husband, an automatum... a robot, she turned her husband's weapon on himself.

Members of the jury, I don't ask you to pity Mrs. Richards. No, instead, I ask you to give Mrs. Richards the justice that has been sadly lacking in her life. And in asking you for justice, I ask you to find Judy Richards not guilty of murder in the second degree by *reason of psychological self defense*. Thank you.

Closing Statements for the Prosecution

(Psychological Self Defense: Moderate and Severe Condition)

Members of the jury

This case is actually very simple. It is, as my learned colleague suggests, very tragic, but still, it is very simple. Culpable homicide is murder when a person means to take the life of another human being. Mrs. Richards took her husband's life. She consciously thought about ending the relationship earlier in the day, she took his gun, released the safety catch, carried it into the bedroom, pulled the trigger once, again, again and finally a fourth time while he lay sleeping. By her own actions and her own admission, she killed her husband. Members of the jury, I want you to remember that revenge does not justify murder.

The defense would have you believe that Mrs. Richards killed her husband in order to prevent gross and enduring impairment of her psychological functioning. However, the law is very clear on the conditions necessary for a psychological self defense plea to be tenable. The defendant had to believe that they were in danger of gross and enduring impairment of their psychological functioning which would significantly limit the meaning and value of their life. Members of the jury, Mrs. Richards valued her life so much so that she was willing to kill a sleeping, unarmed man. Would not the more prudent course of action have been to leave, or to seek outside intervention and thus prevent the situation from culminating in someone's death? Of course it would.

My colleague has tried throughout this trial to shift the blame of Mr. Richards death onto Mr. Richards himself. Mrs. Richards has admitted herself that her husband apologized for his behavior and attempted to make it up to her by being a better husband. He failed in his sincere attempts, and members of the

jury, for that reason Mrs. Richards blew him away with a semi-automatic rifle.

The evidence presented at this trial shows clearly that Mrs. Richards did not kill her husband in *psychological self-defense*, but rather, that knew what she was doing and had alternatives to the ultimate course of action she took. I suggest to you, members of the jury, that if Mrs. Richards gets away with murder, then we might as well declare open season on husbands everywhere.

With the facts of the case in mind, and with, as my colleague suggested, justice as our mandate, I want you to up hold the law and find Mrs. Richards guilty of murder in the second degree. Thankyou.

Judges Closing Statements

(Psychological Self Defense: Moderate and Severe Conditions)

Members of the jury

You have heard all the arguments presented by both the prosecutor and the defense attorney and are now required to come to a decision regarding the tenability of Mrs. Richards plea of psychological self defense. To reiterate: Mrs. Richards has been charged with second degree murder in the death of her husband, Mr. Douglas Richards.

The counsel for the defense maintains that Mrs. Richards was not guilty by reason of *psychological self defense*. *They maintain that at the time of her husband's death, Mrs. Richards had been so threatened and terrorized by her husband that life had lost all meaning for her and she was in grave danger of suffering from gross and enduring impairment of her psychological functioning. They have also suggested that because of existing legal and social structures, Mrs. Richards could not rely on the police to protect her from her violent husband or social agencies to support her if she attempted to leave her husband.* The defense maintains that she had only herself to rely on to protect herself from her husband and consequently she relied on a means that would ensure her safety.

The prosecution, on the other hand, maintains that Mrs. Richards is legally culpable in the death of her husband. *They maintain that a psychological self defense plea does not justify the taking of her husband's life.* They have suggested that she had alternatives to the course of action she took and consequently is legally culpable for his death.

In deciding the verdict you, the members of the jury, have two options available to you. First, you can find Mrs. Richards guilty as charged. In this case I will impose sentencing as dictated

by law. I have no choice but to do so. Or you can find Mrs Richards not guilty by reason of psychological self defense.

It is my duty to remind you that under section 14 of the criminal Code of Canada a *psychological self defense plea can be entered when the defendant had a reasonable belief that deadly force could prevent the infliction of extremely serious psychological injury. Extreme psychological injury is taken to mean gross and enduring impairment of one's psychological functioning which would significantly limit the meaning and value of one's physical existence.*

All jury members are reminded that in order to find the accused guilty, they must be certain that guilt has been proven beyond a reasonable doubt.

Now, reasonable doubt concerning guilt is not merely the possibility of innocence. A reasonable doubt is a doubt that would cause a reasonable and prudent person in the graver and more important affairs of life to pause and to hesitate to act upon the truth of the matter charged.

Proof beyond a reasonable doubt is not proof beyond all possible or imaginary doubt. Instead, it is proof that precludes every reasonable hypothesis except the hypothesis that it tends to support. Proof beyond a reasonable doubt is proof to a moral certainty. Proof beyond reasonable doubt is proof strong enough to convince reasonable people who have examined the evidence before them that no other reasonable conclusion is possible.

If, after hearing all the evidence, you possess reasonable doubt, you must find the accused not guilty. If, on the other hand, you as a juror believe that guilt has been established beyond a reasonable doubt, that is, you are satisfied to a moral certainty and are convinced, you must find the accused guilty as charged.

Members of the jury. It is important that you review carefully all of the evidence that has been presented. You should think carefully about the testimony that you have heard and you must make judgements as to the credibility of each witness. Not everything said under oath in a court of law is necessarily the complete truth. You may now converse among yourselves and

discuss the evidence. The court will reconvene when you have unanimously reached one of the following decisions: Guilty as charged, or not guilty for reasons of *psychological self defense* Thankyou.

Opening Statement for the Defense

(Self Defense: Moderate Condition Only)

Members of the jury,

My learned colleague, Mr. Lewis, has told you that Judy Richards was beaten and psychologically abused by her husband prior to his death. He has also told you that Mr. Richards could have benefited from counselling to help him to quell his nasty temper. And finally, Mr. Lewis suggested that Judy should have used the legal system or simply left her husband in order to avoid being beaten and abused by him. In a normal situation and with normal individuals, even I might agree with Mr. Lewis's recommendations.

But, what the defense will show, is that the activity in the "Richards household" was not that of a normal family. Mr. Richards had more than a "nasty temper", as suggested by my colleague. Mr. Douglas Richards treated his wife, Judy, in much the same way as political prisoners are treated in third world countries. She was literally a prisoner in her own home and consequently was subjected to what amounts to torture. Because of such treatment Judy felt she was, in a sense, at war. Hardly a normal situation.

On the night of her husband's death, Judy Richards life had been threatened. Her husband had told her that he was going to kill her and had shown her the rifle he was going to use to do it. I want you to imagine the psychological terror that such a threat would evoke....*based on his past behavior Judy believed that this was no idle threat, and she believed she was in imminent danger of death.* Why didn't she go to the police at this point? Judy will tell you why she didn't enlist the help of the police. She did not believe the police had the power to stop her husband from doing whatever it was he wanted,.....even if that meant killing her. Judy did not feel the police would be able to protect her from her husband in the long run or, for that matter, take her present complaint seriously.

Why didn't she just leave? Judy could not leave her situation because she had a baby, no money and no where to go. Besides, her husband had threatened to track her down and bring her back even if she did leave. Members of the jury, there are many documented cases of violent husbands tracking down wives who tried to leave them and of these same husbands eventually killing them. Again, I ask you to imagine what life would be like if you had to run and hide from someone who you believed would kill you if they found you.....Imagine the terror of such an existence. Judy believed her husband's threat. She was terrified for her life and felt she had no one to turn to for help.

Did she use excessive force? At the time of her husband's death, Judy was suffering from the physical consequences of her husband's latest attack. She was physically exhausted, feeling trapped in a hopeless situation, and terrified of her husband, terrified for her life and for the life of her baby. Members of the jury, Judy knew that she had to ensure she would not suffer retribution from her husband. She knew that if he survived, she would ultimately die by his hand. Indeed, Judy's terror ran so deep that she was not even sure she had killed him even though she fired four bullets.

The defense maintains that Judy Richards killed her husband in self defense. She believed her life was in imminent danger and she did what she thought was necessary to protect herself and her baby from her husband's wrath. For this reason, I ask you to find Judy not guilty by reason of self defense.

Witnesses for the Defense

(Moderate Condition Only

Self Defense, Automatism and Psychological Self Defense)

Next Door Neighbor: Linda Waters

Defense: Please state your name, occupation and relationship to the accused.

Mrs. Waters: My name is Linda Waters, I am a housewife and I lived beside Judy Richards for about 1 year.

Defense: How much contact did you have with Judy, Linda?

Mrs. Waters: Well, I saw her in passing a couple times of week. We would say hi....talk about the weather.....stuff like that. I really didn't see that much of her though.

Defense: Did you ever talk to Judy about her marriage, or her husband?

Mrs. Waters: Well, I didn't really get to know her all that personally, but there was this one time... after I had asked her if she wanted to come in and have a coffee.... she said that she couldn't. She said that her husband didn't like to be away from the house.....and that he would be really upset if she didn't answer the phone if he called. I got the impression that she was really sad and maybe a little scared to. I didn't want to pressure her by asking anymore questions but I told that if she ever needed anything to let me know...

Defense: And did she?....ever ask you for anything

Mrs. Waters: There was one night in the summer when my husband and I were sitting in the family room watching TV. It was one of those really hot and humid nights, you know..... we

had all the windows open and I could hear some loud voices from outside. I went out on the steps to see what it was and I could hear Doug's voice..... he was yelling at Judy..... Calling her names and stuff..... I went back and got my husband but by the time he came outside the noise had stopped. He told me to quit being so nosy and to forget it but I just couldn't.

Defense: What happened next?

Mrs. Waters: Well, the next day I thought I would go over and make sure everything was all right. I pretended that I needed to borrow an egg for some dessert I was making. Anyway, Judy at first didn't answer the door but after I rang the bell again she came.... she was still wearing a bathrobe and she looked like she had been crying.

Defense: Did you notice any bruises on her?

Mrs. Waters: Yes.....her cheek and eye looked quite swollen. I just couldn't help myself...I had to ask her what had happened. She said that she had slipped and hit a door frame.....she started getting all teary eyed and I asked her if she wanted to talk about it.

Defense: What did Judy say?

Mrs. Waters: She started getting quite upset and told me to.... that she just wanted to be left alone.....for me to leave her alone.

Defense: So did you?

Mrs. Waters: Yes...I left.... I don't know what was going on there but I felt that if I was intruding it just might make things worse..... that what my husband thought too.

Defense: Did you ever hear anymore arguments?

Mrs. Waters: Yes... a couple of times we would hear voices raised but

Defense: Did you ever notice whether Judy was ever injured again?

Mrs. Waters: She kind of avoided me after that time I went over. She stayed in the house alot more to. The one time I saw her out in the back yard she had dark glassess on ... even though it was evening.....

Defense: Did you ever consider calling the police?

Mrs. Waters: Well, I thought about it....but I didn't really want to get involved.....or make things any worse for Judy....My husband figured they were just having fights like any couple has, and wanted me to mind my own business ...I wish now that I would have called the police though.

Defense: Thank you Linda...that will be all.

Cross Examination of Neighbor - Mrs. Waters

(Moderate Condition Only

Self Defense, Automatism and Psychological Self Defense)

Prosecution: Linda. Did you ever actually see Doug Richards hit his wife?

Linda: No

Prosecution: No further questions your honor.

Witness for the Defense

**(Moderate Condition Only
Self Defense, Automatism and Psychological Self Defense)**

Dr. Tast

Defense: Please state your name, occupation and relationship to the accused.

Dr. Tast: My name is Dr. Tast and I am an Intern at the Ottawa General Hospital. I saw Mrs. Richards on the early hours of Sunday morning, June 25, 1989.

Defense: Why?

Dr. Tast: She was brought in by a policeman and they wanted her examined.

Defense: What did you find?

Dr. Tast: The defendant seemed to be in a state of shock. Her affect was poor and she could not respond coherently to questions. At this point I made an appointment for her to see Dr. Johnson, a psychiatrist who is part of the family violence unit at the hospital.

Defense: What was her physical condition?

Dr. Tast: She had a large contusion above her left ear and bruises on her left thigh. I also thought that she had suffered some internal damages. Subsequent X-rays showed that she had a severely bruised right kidney and had sustained some internal bleeding.

Defense: Were these injuries recent?

Dr. Tast: Yes. Probably within 24 hours.

Defense: Thank you Dr. Tast.

Cross-Examination of Doctor Tast

(Moderate Condition)

Self Defense, Automatism and Psychological Self Defense)

Prosecution: Dr. Tast, would the injuries you described be considered life-threatening

Dr. Tast: No.

Prosecution: No further questions your honor.

Witness for the Defense**(Moderate Condition Only****Self Defense, Automatism and Psychological Self Defense)****Mrs. Richards**

Defense: Mrs. Richards, please tell the court your age and how long you had known your husband.

Mrs. Richards: I am 23 and had been married to Doug for three years.

Defense: How did you meet your husband?

Mrs. Richards: After I finished high school I took a full time job working at the Bay in Edmonton. Doug was in the sales office and he used to come by and make some comment all the time to me, kinda funny like. One day he asked me if I would go for lunch with him and I said sure. Well, after that we started dating although I couldn't see him that often because my mother was pretty strict and I was still living at home. I didn't have any brothers or sisters and after my dad died I think my mom relied on me alot. Doug didn't like my mom much though. He thought she controlled my life too much. Anyway, one night, about 6 months after we had been going steady, he asked me if I would marry him and move to Ottawa, as he could get a transfer out here really easy. He said I wouldn't have to work and could just stay home and relax. It sounded pretty good to me. My mother was pretty upset about the whole thing and I didn't hear from her for a long time. I found out later, much later, that she had been writing me but since we had moved alot I never got her letters. Doug refused to let me call her as he said she was a bitch and all she had done was shit all over him.

Defense: So you had no contact with your family after you moved to Ottawa?

Mrs. Richards: Actually, about 8 months after we were married I phoned her when Doug was at work and we talked for awhile. I had been feeling rather lonely being in a new place and everything...I hadn't really met anybody and didn't have anybody to talk to. Anyway, when the phone bill came at the end of that month, there was the call on it. Since Doug opened all the mail he had the proof....there was no denying that I had gone behind his back and phoned her. That was the first time he got really upset with me.

Defense: What did he do?

Mrs. Richards: Well, he started yelling and screaming at me...calling me names and then he ripped the telephone out of the wall and threw it. I had never seen him so wild before. He told me that I belonged to him and that I should never have gone behind his back like I did.

Defense: You mean he wasn't violent with you at all before this?

Mrs. Richards: Oh he'd push me around a bit, and once he threw an ashtray at me, but no, that was the first time he really got crazy.

Defense: How did he treat you after that incident?

Mrs. Richards: Actually the next day he told me that he was sorry he had lost his temper and I felt kinda guilty because I knew that I wasn't suppose to talk to my mom, so we just kinda forgot about it. Everything was O.K. for about a month or so and then he started accusing me of having an affair.

Defense: And were you?

Mrs. Richards: Oh no. Even if I had wanted to I couldn't have...I mean.. He always knew where I was. He would do things like time me when I went to get the groceries and stuff. If I took longer than he thought I should have he would just stand there and belt me in the stomach or something when I came in the door. He would never give me any freedom. At first, I thought this showed how much he loved me, his being jealous and all, but after a while, I started to think he was crazy. He didn't even like me to close the door when I went to the bathroom.

Defense: It sounds like your husband was quite a jealous man Mrs. Richards. How often would you say, he hit you in the year prior to the night he died?

Mrs. Richards: Do you mean hit me hard?

Defense: Yes, hard enough to cause a bruise.

Mrs. Richards: It was probably once or twice a month.

Defense: Mrs. Richards, did you ever try to leave him?

Mrs. Richards: Yes once, after I had a miscarriage.

Defense: Tell us about that please.

Mrs. Richards: Well, about 6 months after that time he got so upset over me for calling my mom I found out I was pregnant. Doug really wanted to have kids so I thought this would make him really happy. After I told him he didn't seem too interested, he just kinda ignored me. Later that night, he went out with some of his friends and came back at about 2 or so. He woke me out of my sleep and started just yelling at me. He said I was nothing but a whore and that the baby didn't belong to him. He kicked me in the

stomach and there was no way I could stop it. He stormed out shortly after this and I felt awful. I started getting cramps and I guess at that point I must have miscarried.

Defense: Did you see a Dr?

Mrs. Richards: No. I didn't want Doug to get any angrier with me than he already was. When I told him I thought I lost the baby, He told me I killed it. I was pretty upset and after thinking about it I decided to leave him. I actually packed a little bag and hid it under the bed. I figured the next time he gave me grocery money I would use it to get on a bus and head for home. *I thought maybe if I gave Doug a little time alone to think about how he had been treating me he might change.* I cared alot about the guy and really thought he needed me, but I just didn't seem to be able to make him happy.

Defense: Did you leave him?

Mrs. Richards: He found the bag I had packed and knew right away that I was thinking of leaving him. He just exploded. *He threw all of my stuff in the garbage and then urinated on it. He was just acting crazy again. I tried to talk to him but the more I said the worse he seemed to get... I didn't seem to be able to reason with him. He told me I was his wife and that meant I couldn't leave him. I remembered I just sat there and cried and cried ..I just felt so useless. Anyway, Doug calmed down and the whole issue was dropped. I was still pretty tense though and I felt like my nerves were shot. I just didn't know what to do. I still loved him but I felt like I was suffocating. I just wanted him to stop hurting me and I didn't know how to.*

Defense: Did you believe that he would hurt you if you left him?

Mrs. Richards: *Well, at this point I still thought there was some hope.... that maybe if I tried a little harder things would get better.*

Defense: How were things between you after you had tried to leave him?

Mrs. Richards: Well I found out about 3 months after all that I was pregnant again.

Defense: Was there anybody you could talk to?

Mrs. Richards: No not really, Doug just didn't like me to talk or get friendly with anybody. It just ended up being worse for me if I did. *One time he took a few punches at me after I told him about talking with a neighbor.* He was convinced that I had been bad mouthing him. No matter how much I denied it he just wouldn't believe me.

Defense: Couldn't you have confided in your Dr?

Mrs. Richards: Well, after I figured out I was pregnant, about 2 months later, I snuck out of the house and went down to the clinic to make sure. The Dr. I saw there didn't ask me about anything and I was just as glad.

Defense: *Your neighbor has testified that she heard you and your husband having a violent argument and had approached you the following day. Why didn't you tell her the what had happened?*

Mrs. Richards: *Well, Doug had been so upset, and he had warned me not to talk to anyone. I just didn't want any more beatings so I thought it would be better to not say anything. Besides, it was so embarrassing, I felt so stupid. What would Linda think of me if she knew my husband hit me?*

Defense: Tell us what happened on the night your husband died.

Mrs. Richards: He had threatened to hurt me bad so many times and I really thought that this time he meant it. There was just something a little bit different than the other times. He was just so wild and crazy.. the look in his eyes terrified me.

Defense: Judy, could you tell the court what happened on that weekend?

Mrs. Richards: Well, Doug came home from work on Friday and started right in on me. The baby had been sick and I didn't have time to make dinner and that was all the reason he needed. He hit me in the chest with his fist which knocked me to the floor and told me to forget the kid and get him his dinner. I gave the baby, who is only eight months old, half of one of my sleeping pills because Doug just seemed so crazy..... I knew I shouldn't have done that but I had to keep him quiet or Doug might have really hurt him. By the time I got some dinner for Doug he had had a few beers. All the time I was getting dinner ready he kept calling me names and told me I was a terrible mother because the baby was sick and that I was a terrible wife because I didn't have his dinner ready for him after he worked so hard all day. Well, after I put the dinner on the table he refused to eat it because I had taken so long. At that point he threw the plate against the wall and left the house, saying he'd go out to get something to eat. I knew he was probably going to the bar but I was just glad he was out of the house. I was a little worried that he would still be pissed off when he came home, though I hoped maybe if he had a good time he would be in a better mood. I cleaned up around the house, cause I knew how much a messy house pissed him off. checked the baby and went to bed around 10.

Defense: What happened next?

Mrs. Richards: I don't know what time it was, I guess around midnight or so, when I heard him coming in. I was in bed and thought I would pretend to be asleep. It didn't do me any good though. He just hauled off and punched me in the back of the head so that I felt dizzy. I fell down and he kicked me in the head. I must have blacked out because the next thing I knew was that he was standing over me with the gun, pointing it at my head telling me how he was going to blow my brains out. He was calling me every dirty name he could think of and had a really crazy look in his eyes. I was just paralyzed with fear. All I could really think of was what's going to happen to my baby if I'm not here. Then he hit me with the butt end of the gun and I lost consciousness again.

I stayed on the floor of the bedroom all night I guess. I felt really lousy when I got up. The baby was crying though so I tried to look after him. Doug wasn't in the house, and I didn't know where he had gone and I just didn't care. I gave the baby something to eat and tried to get myself cleaned up a bit but my head hurt no much so I went back to bed. I sat there in bed thinking about all the times he hit me and how I just couldn't take it no more. He hadn't hit the baby at least, but I didn't think that would last for long. I kept thinking about how I could get out but I didn't have any money or any way to get away. Besides, I was so sick at the time I could hardly get out of bed. I thought about calling the police but I didn't think the police would do anything. I just couldn't see them arresting Doug because I said he wanted to kill me...what proof did I have? Anyway, I started thinking about killing myself, that's what I felt like doing..... but then I kept thinking of the baby and how I couldn't leave the baby to him. I knew what I really wanted was for him to be gone, out of my life forever, but even thinking that made me feel scared.

Defense: Tell us what happened next Judy.

Mrs. Richards: Well, Doug came back about 5 o'clock and was just ignoring me. He didn't mention anything about the night before and I was trying to avoid upsetting him so I didn't say

anything. He had started drinking beer and later, at about 9 o'clock, he got out the gun again. I had given the baby the other half of the sleeping pill because I knew Doug was still in a bad mood and I didn't want the baby to upset him. Doug was cleaning the gun and he kept looking at me. He'd look at me and say he had a big job to do with the gun and wanted to make sure it was working properly. I just knew he meant he was going to kill me with it and I felt a little panicked. He kept describing how powerful the gun was and how sometimes the only solution to some problems was to get rid of them permanently. Then he'd said "yep, tomorrow's the day". Then he started telling me how lousy I looked, as if it was my fault, and then he got mad at me cause he said I kept staring at him. I told him I wasn't feeling too good and he suggested that if I felt that bad I should use the gun on myself. I just looked at him and he said he knew I didn't have the guts, that's why he'd have to take care of the problem himself.

I finally went to bed around 11 and was still feeling pretty lousy. He followed me in and wanted to have sex but I was just too sore, from the beating the night before. I tried to tell him that but he wasn't listening so I just shut up and did my best to get it over with. He fell right asleep afterwards. I got up and went to the kitchen. Although I usually don't drink much I thought I'd have a drink of scotch to sooth the pain in my chest. The gun was sitting on the table just like he'd left it there for me. I started thinking again about my situation and how he was going to kill me. Things get a bit hazy for me at this point but I remember thinking "I've just got to escape".

From this point on it was like I was watching a movie of myself doing things. I watched myself pick up the gun and take the safety catch off. I still didn't know at this point that I was going to kill him. I just kept looking at the gun and thinking about what a bastard he was. I poured another drink and was still holding the gun. I felt all confused, between the scotch and the pain. It was just like a dream where everything is moving in slow motion. Once again I was watching myself move towards the bedroom door and walk in the room. I walked to the bedroom

door with the gun and stood there staring at him. After that I don't remember too much, things get really hazy. I guess I must have put the gun to his head and pulled the trigger, but I can't really remember what happened. It was like somebody else was doing this and I was just watching. I don't really remember firing the other shots but I remember thinking that "if he catches me he's going to kill me". I know that sounds dumb but I just kept thinking "I'm really going to get it for this".

Once the gun was empty, I guess I went back into the kitchen. I really don't remember much at this point. I still had the gun and I remember I was shaking really bad when I went to pour another drink. I took it into the living room and sat in the chair facing the hallway to our bedroom. Everything seemed so quiet, almost peaceful like. I kept thinking, any minute now he's going to burst out of that bedroom and beat the shit out of me. I remember looking down at the gun and wondering what it was doing in my hands. Then I thought, maybe nothing really happened....It is all so hazy and my thoughts at this time were very confused. It was at this point, I guess, that I called the police.

Defense: Thank you Judy. No further questions your honor.

Cross-Examination of Mrs. Richards

(Moderate Condition Only

Self Defense, Automatism and Psychological Self Defense)

Prosecution: Mrs Richards: You stated that you killed your husband and that you believed that you had no choice except to do so. We have heard, according to your testimony, how he physically abused you on a number of different occasions. Finally you stated that you believed your husband was going to kill you. Why didn't you phone the police?

Mrs. Richards: *I was afraid.....besides, they couldn't have stopped Doug from hurting me. They don't know him....what he can be like.*

Prosecution: *Mrs. Richards, why didn't you call a woman's shelter for help? Why didn't you take that course of action?*

Mrs. Richards: *I just didn't think of it at the time.....*

Prosecution: You just didn't think of of it at the time..... Mrs. Richards let's talk about something else. You said that your husband hit you on a number of occasions. Is that right?

Mrs. Richards: Yes.

Prosecution: You didn't like to be hit like that did you?

Mrs. Richards: No.

Prosecution: Did you think your husband was justified in hitting you?

Mrs. Richards: No. I didn't do anything to deserve getting hit.

Prosecution: Well Mrs Richards.. If he kept hitting you when you didn't deserve it you must have gotten pretty mad didn't you?

Mrs. Richards: I couldn't get mad because if I did he would have hit me even more.

Prosecution: But you must have gotten mad inside even if you didn't let it show...isn't that true Mrs. Richards?

Mrs. Richards: Yes I got mad but I didn't do anything about it.

Prosecution: But you did do something about it, didn't you. When you finally got mad enough you killed him, isn't that right?

Mrs. Richards: I killed him because I was afraid he was going to wake up and kill me.

Prosecution: But you must also have been mad enough at him to kill him weren't you?

Mrs. Richards: I don't know. I was just really scared and confused at the time.

Prosecution: But you had been mad at him before?

Mrs. Richards: Yes

Prosecution: Mrs. Richards. You have told the court that you wanted your husband out of your life earlier in the day, prior to actually committing the act. You also stated that you released the safety catch on the gun prior to going into the bedroom. Finally, you carried the gun into the bedroom and put the gun up to your sleeping husband's head. You then pulled the trigger 4 times. And yet you claim that you had to do this to protect yourself. Was your husband attacking you when you pulled the trigger?

Mrs. Richards: No

Prosecution: Was he stalking you or making threatening gestures n you?

Mrs. Richards: No

Prosecution: Well then, why did you kill him?

Mrs. Richards: I believed he was going to kill me when he woke up.

Prosecution: Can you see inn the future Mrs. Richards? Could you state with absolute, 100% certainty that he was going n kill you?

Mrs. Richards: Well, I thought so...

Prosecution: Mrs. Richards, Did you fire the first bullet that the coronor stated killed your husband?

Mrs. Richards: Yes, I guess so.

Prosecution: Did you fire the second bullet?

Mrs. Richards: Yes.

Prosecution: And how about the third bullet. Did you fire the third bullet?

Mrs. Richards: I don't really remember, but I guess I must have

Prosecution: And finally Mrs. Richards. Did you fire the fourth bullet?

Mrs. Richards: Yes.

Prosecution: So, Mrs. Richards you fired not once, not twice or even three times, but you fired 4 bullets at close range inn the sleeping body of your husband. Is that true?

Mrs. Richards: Yes

Prosecution: No further questions your honor.

Closing Statement for the Defense

(Self Defense: Moderate Condition Only)

Members of the jury

Although Mrs. Richards is on trial for murder, she has really been the victim of an insidious crime. A crime that has been documented over and over again, but has only recently come under public scrutiny. That crime, members of the jury, is wife abuse. The home has always been considered a sanctuary from the often cold and cruel outside world.... A haven from the miseries we hear about daily on the local news and from our friends and neighbors. But we have a case here, a tragic case, where the home was not a refuge, but instead a place where insult and punishment was handed out on a daily basis. The Richards' home was dominated by a cruel and sick man, a man who instead of treating his wife with love and respect, treated her with torment and cruelty. He beat her for not bringing home the groceries on time, he beat her and caused her to miscarry, and because of his constant cruelty Mrs. Richards is left her with emotional scars that will not heal for a long time.

And so, when the strain of trying to maintain her sanity became too much, when the continuation of her life and the life of her baby were in question, she protected herself by taking her tormentor's life. *Did she have a reasonable belief that she was in imminent danger of death or serious bodily harm at the time of her husband's death?* He had told her that he was going to kill her the very next day and threatened her with the very weapon he was going to use. Judy Richards has stated that she believed she was going to die and based on the increasing severity of his attacks I submit to you that her belief was indeed reasonable.

Although Mr. Richards is not on trial here we must take into account his culpability in this case. I ask you to consider the example of a drunk driver. If an individual chooses to get into a vehicle while in a state of extreme intoxication and then drives

that vehicle into a pole....we don't blame the pole for his death do we?? No ... the individual is held accountable for their situation. If Mr. Richards had been a kind and considerate man would Judy have used a gun on him? Of course not. All she wanted was to lead a life that held some meaning for her....and Mr. Richards took the possibility of that life away from her. He had repeatedly threatened her life and had shown her the weapon he was going to use to kill her. He terrorized her. Judy Richards has stated that she believed she just couldn't go on. He had told her that he was going to kill her the very next day and threatened her with the very weapon he was going to use. Judy Richards has stated that she believed she was going to die and she believed that her husband would kill her.

Could she have gone to the police with her fears? Members of the jury, we have great faith in the police force's ability to protect us. But did Judy? Because of the treatment she had received over the years from her husband she trusted no one. But even if she had gone to the police, could they have prevented the attempt on her life the next day? and the next? and the next? There were certainly no signs that Mr. Richards' behavior was getting any better. Indeed, the viciousness and severity of his attacks were becoming worse. The police could not have helped Judy unless they were prepared to maintain an armed guard around her for the rest of her life. And I ask you....what kind of a life would that be.

And so instead of being killed, she turned her husband's weapon on himself. Did she use excessive force? If you consider the vindictiveness of her husband and the extent to which Judy believed he would hurt her, she used a force necessary to stop him.

Members of the jury, I don't ask you to pity Mrs. Richards. No, instead, I ask you to give Mrs. Richards the justice that has been sadly lacking in her life. And in asking you for justice, I ask you to find Judy Richards not guilty of murder in the second degree by reason of *self defense*. Thank you.

Opening Statement for the Defense

(Automatism: Moderate Condition Only)

Members of the jury,

My learned colleague, Mr. Lewis, has told you that Judy Richards was beaten and psychologically abused by her husband prior to his death. He has also told you that Mr. Richards could have benefited from counselling to quell his nasty temper. And finally, Mr. Lewis suggested that Judy should have used the legal system and left her husband in order to avoid being beaten and tormented by him. In a normal situation and with normal individuals, even I might agree with Mr. Lewis' recommendations.

But, what the defense will show, is that the activity in the "Richards' household" was not that of a normal family. Mr. Richards had more than a "nasty temper", as suggested by my colleague. Mr. Douglas Richards treated his wife, Judy, in much the same way as political prisoners are treated in third world countries. She was literally a prisoner in her own home and consequently was subjected to what amounts to torture. Because of such treatment Judy felt she was, in a sense, at war. Hardly a normal situation.

On the night of her husband's death, Judy Richards' life had been threatened. Her husband had told her that he was going to kill her and had shown her the rifle he was going to use to do it. I want you to imagine the psychological terror that such a threat would evoke. Based on his past behavior Judy believed that this was no idle threat *and Judy was terrified, "frightened out of her wits"*.

Why didn't she go to the police at this point? Judy will tell you why she didn't enlist the help of the police. She did not believe the police had the power to stop her husband from doing whatever it was he wanted.....even if that meant killing her. Judy did not feel the police would be able to protect her from her husband in the long run or, for that matter, take her present complaint seriously.

Why didn't she just leave? Judy could not leave her situation because she had a baby, no money and no where to go. Besides, her husband had threatened to track her down and bring her back even if she did leave. Members of the jury, there are many documented cases of violent husbands tracking down wives who tried to leave them and of these same husbands eventually killing their wives. Again, I ask you to imagine what life would be like if you had to run and hide from someone who you believed would kill you if they found you? Imagine the terror of such an existence. Judy was terrified for her life and felt she had no one to turn to for help.

So on the night of her husband's death, Judy's mind could no longer handle the stress of living with a man who had continually beat and threatened her and whom she was sure was going to kill her on the following day. At the time of her husband's death, Judy was suffering from the physical consequences of her husband's latest attack. She was physically exhausted, feeling trapped in a hopeless situation, and terrified of her husband, terrified for her life and for the life of her baby. Members of the jury, Judy's terror ran so deep that she was not even sure that she had killed him even though she fired four bullets from his gun. She was no longer able to think rationally and to weigh out the consequences of her actions. Under the stress of the thought of death, her mind snapped.

The defense maintains that Judy Richards killed her husband *while in a state of automatism. Because of the stress she was under due to her husband's behavior, she slipped into a dissociated state. And while in this state, she did what was necessary to protect herself and her baby from her husband's wrath. She was not aware of the consequences of her actions* and for this reason, members of the jury, I ask you to find Judy Richards not legally culpable for the death of her husband.

Closing Statement for the Defense

(Automatism: Moderate Condition Only)

Members of the jury

A person cannot be found legally guilty of murder if at the time, they acted without will or reasoned intention. Now the prosecution will suggest to you that Judy Richards killed her husband while in a normal state of mind and then concocted the story of dissociation in order to escape punishment. However, when the evidence is examined carefully and dispassionately, it becomes clear that the prosecution has no case. They are grasping at straws. Mrs. Richards was obviously not in a normal state of mind when she killed her husband. She did not kill him willfully or with reasoned intention. Instead, the killing resulted from the fact that her mind had snapped. Mrs. Richards was in a dissociated state at the time of the killing and therefore was not responsible for the death of her husband.

Members of the jury, think back to the evidence of the arresting officer. Remember her stating that she was dazed, that she failed to respond to his order to drop the gun, and that she seemed so obviously dazed that he felt safe in walking up to her and taking the gun out of her hands. Members of the jury, does that sound like a woman in a normal state of mind? No, of course not.

Remember also Mrs. Richards' own testimony and the testimony of the Dr. who examined her. Mrs. Richards stated that she was so disoriented that she could not remember much of what happened. She couldn't even remember firing the bullets into her husband's body. In fact, all she remembered was walking, like in a dream, watching herself do things but feeling like it was not really her doing them.

Although Mr. Douglas Richards is not on trial here we must take into account his culpability in this case. I ask you to consider the example of a drunk driver. If an individual chooses to get into

a vehicle while in a state of extreme intoxication and then drives that vehicle into a pole.... we don't blame the pole for his death, do we? No ... the individual is held accountable for their situation. If Mr. Richards had been a kind and considerate man, *would Judy's mind have snapped?* Of course not. He terrorized her and because of that terror, Judy Richards' mind could take no more. He had told her that he was going to kill her the very next day and threatened her with the very weapon he was going to use. Judy Richards has stated that she believed she was going to die and she believed that her husband would kill her.

Does a normal person who plans a murder call the police afterwards and then wait in a daze for them to come and arrest them? Does all this sound like someone who is in a normal state of mind? No of course not. Instead, it sounds like someone who, after years of terrible abuse, after years of overwhelming fear, finally snapped. When her husband actually threatened to kill her the next day, Mrs. Richards mind could take no more. Already frightened, beaten and exhausted, unable to see any escape, facing what she believed to be certain death at the hands of a vicious sadistic husband, her mind cracked, she lost consciousness and will and... while in a dissociated state her unconscious mind took over. Mrs. Richards did not plan her husband's death anymore than a sleepwalker is responsible for walking into the road, or that you or I are responsible for things dreamt about at night.

Did Mrs. Richards, an unsophisticated women who never went beyond high school fake the highly complex psychiatric syndrome of dissociation so effectively that she was able to fool an experimental psychiatrist with years of clinical experience? No, of course she didn't. She didn't have to fake anything, members of the jury, because she was in a dissociated state.

And it is for that reason I ask you to find Judy Richards not guilty of murder by reason of automatism. Thank you

Opening Statement for the Defense

(Psychological Self Defense: Moderate Condition Only)

Members of the jury,

My learned colleague, Mr. Lewis, has told you that Judy Richards was beaten and psychologically abused by her husband prior to his death. He has also told you that Mr. Richards could have benefited from counselling to help him to quell his nasty temper. And finally, Mr. Lewis suggested that Judy should have used the legal system or simply left her husband in order to avoid being tormented and abused by him. In a normal situation and with normal individuals, even I might agree with Mr. Lewis' recommendations.

But, what the defense will show, is that the activity in the "Richards household" was not that of a normal family. Mr. Richards had more than a "nasty temper", as suggested by my colleague. Mr. Douglas Richards treated his wife, Judy, in much the same way as political prisoners are treated in third world countries. She was literally a prisoner in her own home and consequently was subjected to what amounts to torture. Because of such treatment Judy felt she was, in a sense, at war. Hardly a normal situation.

On the night of her husband's death, Judy Richards life had been threatened. Her husband had told her that he was going to kill her and had shown her the rifle he was going to use to do it. I want you to imagine the psychological terror that such a threat would evoke..... *Judy believed that she would be destroyed, if not physically, then certainly psychologically. Life had lost any meaning for her.* Why didn't she go to the police at this point? Judy will tell you why she didn't. She did not believe the police had the power to stop her husband from doing whatever it was he wanted.....even if that meant killing her. Judy did not feel the police would be able to protect her from her husband in the long run or, for that matter, take her present complaint seriously.

Why didn't she just leave? Judy could not leave her situation because she had a baby, no money and no where to go. Besides, her husband had threatened to track her down and kill her even if she did leave. Members of the jury, there are many documented cases of violent husbands tracking down wives who tried to leave them and of these same husbands eventually killing their wives. Judy could not face a life of running and hiding from a man that she believed would ultimately kill her. Again, I ask you to imagine what life would be like if you had to run and hide from someone who you believed would kill you if they found you? Imagine the terror of such an existence. What kind of life would that be? Judy believed her husband's threats. She was terrified for her well being and felt she had no one to turn to for help.

At the time of her husband's death, Judy was suffering from the physical consequences of her husband's latest attack. She was physically exhausted, feeling trapped in a hopeless situation, and terrified of her husband. *She was not in control of her life, she was not allowed to have a say in anything she did; thought; or felt. The only real alternative open to her was suicide, and I ask you members of the jury, would that be fair? Should she have to end her own life because the man she was involved with took away any meaning that life held for her? No of course not. Judy knew that in order for life to have any meaning for her, she had to had to take her husband's life.*

The defense maintains that Judy Richards killed her husband for reasons of psychological self defense. Her life had ceased to have any meaning and she was in danger of suffering from gross and enduring impairment of her psychological functioning if he continued to be a part of that life. For this reason, I ask you to find Judy not guilty by reason of psychological self defense.

Closing Statement for the Defense

(Psychological Self defense: Moderate Condition Only)

Members of the jury

Although Mrs. Richards is on trial for murder, she has really been the victim of an insidious crime. A crime that has been documented over and over again, but has only recently come under public scrutiny. That crime, members of the jury, is wife abuse. The home has always been considered a sanctuary from the often cold and cruel outside world.... A haven from the miseries we hear about daily on the local news and from our friends and neighbors. But we have a case here, a tragic case, where the home was not a refuge, but instead a place where insult and physical punishment was handed out on a daily basis. The Richards' home was dominated by a cruel and sick man, a man who instead of treating his wife with love and respect, treated her with torment and cruelty. *He consistently and constantly undermined her sense of self-esteem, he hit her whenever he felt like it, he refused to let her socialize or contact family members, he treated her like a slave, making her comply with his every wish. He terrorized Judy to such an extent that she thought she would be better off dead....certainly life had lost any meaning for her and if it hadn't been for the concern she felt for her child, Judy might very well not be with us here today.*

And so, when the strain of trying to maintain her sanity became too much, when the continuation of her life lost any meaning, she protected herself. the very essence of her being, her psychological self, by taking her tormentor's life. Members of the jury, we all have the right to protect our psychological integrity. The concept of psychological self defense enshrines a fundamental principle of justice in our land. The principle is that the value of life lies not in mere physical existence... but rather in the capacity to experience that existence in a psychologically meaningful and rewarding fashion.

Although Mr. Douglas Richards is not on trial here we must take into account his culpability in this case. I ask to consider the example of a drunk driver. If an individual chooses to get into a vehicle while in a state of extreme intoxication and then drives that vehicle into a pole.... we don't blame the pole for his death, do we? No ... the individual is held accountable for their situation. If Mr. Richards had been a kind and considerate man, would Judy have used a gun on him? Of course not. *All she wanted was to lead a life that held some meaning for her... and Mr. Richards took the possibility of such a life away from her.* He had repeatedly threatened her life and had shown her the weapon he was going to use. He terrorized her. Judy Richards has stated that she believed she just couldn't go on. He had told her that he was going to kill her the very next day and threatened her with the very weapon he was going to use. Judy Richards has stated that she believed she was going to die and she believed that her husband would kill her.

Could she have gone to the police with her fears? Members of the jury, we have great faith in the police force's ability to protect us. But did Judy? Because of the treatment she had received over the years from her husband she trusted no one. Judy did not feel she could trust the police....she did not believe that she could trust anyone.

And so instead of become little more than a slave to her husband, an automatum... a robot, she turned her husband's weapon on himself. *She protected herself from gross and enduring psychological harm.*

Members of the jury, I don't ask you to pity Mrs. Richards. No, instead, I ask you to give Mrs. Richards the justice that has been sadly lacking in her life. And in asking you for justice, I ask you to find Judy Richards not guilty of murder in the second degree by reason of *psychological self defense*. Thank you.

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