

COUNTY OF MONROE
STATE OF NEW YORK

People of the State of New York

V.

Donna Osborn

On September 6, 1991, the Monroe County Grand Jury returned a true bill against Donna Osborn, which indicated her on the charge of Murder in the Second Degree, a violation of Section 125.25 of the Penal Law. Specifically, it is alleged that on or about February 14, 1991, Donna Osborn intended to and did cause the death of Clinton Osborn II in that while at their residence at 805 Clover Street, she fired two shots from a Beretta 9 m.m. semi-automatic pistol, which struck Clinton Osborn II in the back and caused his death.

Stipulations by Prosecution and Defense

1. Clinton Osborn II and Donna Osborn were legally married in January 1988.
2. Clinton Osborn II and Donna Osborn resided together at 805 Clover Street.
3. Clinton Osborn II died on February 14, 1991, at approximately 6:30 p.m. The cause of death was two wounds caused by 9 m.m. bullets. One bullet entered his back and passed through the left ventricle of the deceased's heart. The other bullet severed the deceased's aorta. The deceased died within two minutes of impact of the bullets.
4. The bullets removed from the deceased, Clinton Osborn II, match those fired in ballistic tests by the Monroe County Crime Lab from the 9 m.m. Beretta pistol taken from Donna Osborn by Deputy Chris Powell.
5. The 9 m.m. Beretta pistol taken from Donna Osborn by Deputy Chris Powell on February 14, 1991, contains three sets of fingerprints. Donna Osborn's fingerprints are present. Clinton Osborn II's fingerprints are present. A third set of smudged fingerprints cannot be identified.

SECTION of 125.25

The charge of Murder in the Second Degree reads as follows:

A person is guilty of murder in the second degree when:

1. With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution under this subdivision, it is an affirmative defense that:

A lesser-included offense of Murder in the Second Degree is Manslaughter in the First Degree, which reads:

A person is guilty of manslaughter in the first degree when:

1. With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or

2. With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in paragraph (a)

- (a) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be.

The defense will raise justification as a defense. Justification, as it may apply in this case, is defined in Section 35.15 of the Penal Law and reads:

1. A person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use of imminent use of unlawful physical force by such other person,

2. A person may not use deadly physical force upon another person under circumstances in subdivision one unless:

(a) He reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he knows that he can with complete safety as to himself and others avoid the necessity of so doing by retreating; except that he is under no duty to retreat if he is:

(l) in his dwelling and not the initial aggressor.

WITNESSES

FOR THE PROSECUTION

Chris Powell, Monroe County Sheriff's Dept.
Dr. Leslie Crown
Clare Osborn
Lynn Johnson, Ph.D.

FOR THE DEFENSE

Donna Osborn
Lee Harris, Director, Options For Battered Women
Jack Mathews
Kim Lenore, Ed.D.

WITNESS STATEMENT
Chris Powell

CHRIS POWELL, being duly sworn, deposes and says:

My name is Chris Powell. I am a member of the Monroe County Sheriff's Department assigned to the road patrol. This statement is offered in lieu of all notes and reports concerning People v. Donna Osborn, which were inadvertently lost due to a fire.

On February 7, 1991 I responded to a radio dispatch indicating a family squabble at the Osborn house. I was familiar with the location. Mr. Osborn was a well-known golfer in the area. I knocked on the door and was admitted by Mr. Osborn, who looked nervous and upset. The living room was somewhat in disorder, a glass table and lamp at the bottom of the steps were completely demolished and glass shards were everywhere. Mrs. Osborn was sitting on the steps crying. She had blood on her face from an open cut on her forehead. I was concerned and asked what happened. Mr. Osborn said that his wife had fallen down the steps and said that they were going to the family doctor to attend to her cut.

I asked Mrs. Osborn what happened and she agreed with her husband. Her voice was trembling. I did not speak alone with her. Mr. Osborn declined my offer of a ride. So I left.

At 6:40 PM, on February 15, 1991, I responded to a 911 dispatch directing me to a shooting at the Osborn home. I arrived, withdrew my service revolver and proceeded carefully through the house. I found Mrs. Osborn sitting in her son's room with a pistol on the table next to her. I proceeded carefully, but Mrs. Osborn made no threatening movements. She calmly offered me the pistol and said, "He's... in the garage.... Dead.... He was going to kill us.... I had to stop him."

A man I recognized as Clinton Osborn was lying on the garage floor in a pool of blood with two bullet holes in his back. He was still warm, but he had no pulse and was not breathing. A 36-ounce "Louisville Slugger" was lying on the floor next to him. Nearby was a box of a dozen black roses, and a card inscribed "To my Valentine - Good bye and love always, Clinton."

I called for an ambulance and placed Mrs. Osborn under arrest. I read Mrs. Osborn her rights and she agreed to give a complete statement. I observed that the door leading from the den to the back deck was open. The house was in complete shambles. Clothes were strewn everywhere and a suitcase was open on the bedroom floor. A large oil painting of the Osborn family above the fireplace was slashed and destroyed.

I HAVE READ THE FOREGOING STATEMENT AND IT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Chris Powell

Tom Rivera, Notary Public

WITNESS STATEMENT
Leslie Crown

LESLIE CROWN, being duly sworn, deposes and says:
My name is Leslie Crown. I am a medical doctor with 40 years experience in family practice. I have served the Osborn family for 30 years and knew Clint Jr. his whole life. I delivered him and watched him grow into a prominent and respected man. He was under great stress at the brokerage since his father's death but he still handled all my finances and regularly played golf with me at the club. He was one of the area's best golfers, and a fierce competitor. He usually won, but when he missed a shot, what a temper. He once lost the championship on the last hole and threw his putter clear over the clubhouse.

I came to know Donna Osborn after her marriage to Clinton. I treated her for the usual colds and flu and delivered her son Chip. I did treat Donna on a number of occasions for broken bones and deep lacerations. Each time Clint and Donna explained that she had an accident. Donna never once told me about Clinton injuring her in anyway. If anything I was concerned that she was careless and clumsy.

In May of 1989, I placed 18 sutures on her forehead and prescribed codeine for her headache. She had a nasty cut from a softball game. On March 5, 1990, she came to me with a compound fracture of her right arm suffered in a baseball game. Clinton and I later had a good laugh over this one. He said it happened when she slid into first base.

On November 20, 1990, she suffered a broken rib, which I set. She said she slipped while carrying the Thanksgiving turkey. Apparently the turkey dinner was ruined. On February 7, 1991, I placed twelve sutures in her forehead again. She explained she tripped, falling down the stairs.

Clinton told me that he and Donna sometimes argued, but he said they always made up in "a passionate way." From what he told me, she was pretty inept around the house, and judging from her accidents I agreed with him. He said that her poor mothering and housekeeping skills were the source of their problems. Clinton could be demanding, but he was no abuser. Donna would have had ample chance to tell me if he was abusive to her, but she never did.

I HAVE READ THE FOREGOING STATEMENT AND IT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Thomas Rivera
Notary Public

Leslie Crown

SWORN TO BEFORE ME ON _____

WITNESS STATEMENT
Clare Osborn

CLARE OSBORN, being duly sworn, deposes and says:

My name is Clare Osborn. I am widowed and live at 2711 Clover Street in Rochester, NY. I am 64 years old. The late Clinton Osborn II was my son. I have known the defendant, Donna Osborn since the fall of 1987. That's when she and Clinton became engaged.

I would describe Clinton as a loving father, a devoted husband, and a generous provider for his family. He was well regarded as a stockbroker at Winston, Osborn, and Kroll, a firm founded by his grandfather. He headed the firm after his father's death. Like all the Osborn men, he was a respected community leader.

He took excellent care of his family and tended to their every need. He managed most details of the household. He even took time to drive his wife to the store. He was the sole "breadwinner" and personally tended to the family finances.

In contrast my daughter-in-law, Donna did not appear to be a very capable or independent person. She couldn't even tend to simple matters like a checkbook and credit cards. But she knew how to spend it. You should have seen the gifts Clinton would buy her. He was always running errands; he even did all the family shopping.

She wasn't much of a housekeeper, their house sometimes looked like a "tornado hit it". It seemed to be getting even more disorganized in recent months. Clinton was critical of Donna's incompetence; perhaps sometimes he was overly critical. He was like his late father in that way, they were both perfectionists. But he never demanded more of Donna than he did of himself. Clinton just wanted everything done the right way, the way he would do it.

Donna deserved the criticism. She really wasn't right for my Clinton. Great men need a great woman at their side. A capable wife knows how to deal with the stress of a responsible man's career. My husband sometimes lost his temper with me, but I accepted it because he was under great pressure at the brokerage.

Donna was not the best of mothers. She seemed too distracted and self-absorbed to care for my grandson, Chip. He was becoming increasingly wild lately. I recently saw him in his room beating on his teddy bear with a toy tennis racket and calling it "a bitch". I was shocked at such language from a little boy. When I confronted Donna with the story she said he must have picked it up from TV. What shows did she let him watch?

Donna should have shown more interest in her family instead of her "new career." Clinton told me what was really going on at school - an affair between Donna and Jack Mathews. Clinton told me he caught them together alone in a classroom.

He told me just last week that he would “put an end to Donna’s affair and career.” He was on to her and he had no intention of letting her betray him like that. He said, “If she leaves me she’ll never see m son or my money.” I think that’s why she killed him.

The last time I spoke with Donna was on the afternoon of February 10. I asked her about Jack Mathews and she said, “Jack isn’t the problem, he’s only trying to help.” I grew angry and said that I wouldn’t call breaking up a marriage “help.” She replied that I had the wrong idea about Jack. She said that he was just a “friend who cared.” She went on to say that her marriage wasn’t what I thought it was. She stated, “I can’t take Clinton much longer, you don’t know what he’s really like. It all must come to an end.” At the time I thought that she meant that she was going to try to leave him, I had know idea what she really had in mind.

Now Donna claims that Clinton was hurting her. I only saw Clinton be a little “rough” with Donna on one occasion. He sort of shoved her into a chair. But you must understand that he had a very difficult time “filling his father’s shoes” at the brokerage. It had been very stressful for him.

Donna certainly had every opportunity to tell me if these things were actually going on. She never came to me for help. Her injuries over the last few years were accidents, she told me about them herself. But she’s now lying about those accidents to try and save herself. What a disgrace to our family. As far as I’m concerned the only violence in that house was the night she killed my son.

I HAVE READ THE FOREGOING STATEMENT AND IT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Thomas Rivera
Notary Public

Clare Osborn

SWORN TO BEFORE ME ON _____

Sworn Statement of Lynn Johnson

My name is Lynn Johnson. I am a professor of law at Yale Law School. I hold a J.D. from the University of Toledo Law School and a Ph.D., M.A. and B.A. in Psychology from the University of Vermont. I am author of the book, The Myth of the Terrible Love Defense. I am being paid \$1,500 for my testimony. I have testified as an expert about law and psychology in four trials. I have not examined Donna Osborn, but I have reviewed Dr. Lenore's report, and the statements of all the witnesses. It should be obvious to anyone trained in psychology that Donna Osborn's conduct does not fit the "burning bed" defense of temporary insanity or the battered wife syndrome defense. Additionally, while the "battered wife" defense may be admissible in this court, it should be viewed critically.

The reasonable battered wife standard is a contradiction in terms. It makes no sense to define the reasonable person in terms, which indicate unreasonableness - helpless, impulsive, and violent. In every circumstance leading to this defense, there is a more reasonable response offered the defendant than murder - departure. The abused may always leave. So, when Dr. Lenore says that Ms. Osborn had no choice on February 14, 1991, when Clinton said he was going for the bat, she's wrong. Donna could have and should have left. Get the heck out! In many so-called "battered wife" cases, the victim has been shot while sleeping or stabbed hours after the argument. Can a woman be totally helpless and yet capable of loading and firing a gun at another human or stabbing them? The truth is that the woman responds from "learned violence," not "learned helplessness." Is this a normal response to physical abuse or simply premeditated murder? It is the latter, I believe. The false legal strategy at the base of this defense is simple - blame the deceased. It's an anti-man defense. Ask Dr. Lenore. She's acknowledged her bias against men. She's said that she tends to place men in a negative light.

Even if the "battered wife" defense is accepted by the court as a valid legal theory, Donna Osborn does not fit the profile. First, she was not isolated. She is college educated with an advanced degree. She has had years of socializing and knowing how to interact with people. If she wound up only interacting with family, it must have been by choice, which is not an uncommon choice for many married couples. Second, utter financial dependence was not present. She lived in a wealthy community and expensive home. She could have found ways to save money. She could have written the grocery check for \$25 over each week or borrowed from her relatives. As a college-educated person, she could have left and easily obtained employment as she did near the end.

According to the accepted theories of "battered wife" syndrome, the spouse goes through many stages. Here, it is asserted that Donna's statements to the family doctor explaining her injuries were simply false excuses used by her during the guilty stage and that by the time she had gotten the job, she had reached the responsibility stage. But consider carefully that the defense is also asserting that when the police responded to the home on February 7, 1991, Donna's response to a police inquiry about her cut forehead was that she had fallen. This came at a time when she was supposed to be in the enlightenment or responsibility stage. However, the statement was false and an excuse which is characteristic of the guilt stage. The defense can't have it both ways.

Dated: September 10, 1991 Rochester, New York

WITNESS STATEMENT
Donna Osborn

DONNA OSBORN, being duly sworn, deposes and says:

My name is Donna Osborn, I am 28 years old. I reside at 805 Clover Street with my son Clinton III, aged three years, and my late husband Clinton Osborn II. I met my husband while at the U of R graduate school in 1987. I had left my job in Ohio as a high school teacher to complete my Master's degree in English. I had planned to return to teaching.

In January of 1988 we were married at a lavish wedding thrown by Clint's mother. I became pregnant in March and our son "Chip" was born in December. I became a housewife after marriage and did not return to teaching until January 1991. Clint had a new home built. It was located on Route 64 about four miles north of Honeoye Falls on a secluded ten-acre site with a pond. About the time I became pregnant, Clint began to act very possessive of me and jealous of the workmen finishing up the house. At first I was flattered, but then I found that he could get verbally abusive in a way that surprised me.

Over the next two years this verbal abuse increased. He could be very critical of things I had done. He would mock my upbringing and tell me I wasn't as well bred as the Osborns. Clint would quiz me on every detail of how I spent my day and point out how much time I wasted. He could fly into a rage over something trivial, such as what I made for dinner. He blamed me for things I had no control over, like a faulty appliance. I believed him and usually I just tried to get things right and avoid his criticism.

Soon after we were married he began to cut me off from the few local friends I had. He said he wanted me all to himself, and told me to keep busy with the house and baby. He refused to buy a second car and living where we did I had to rely on him or his mother Clare to drive me shopping. He began to do the shopping on the way home from work, and before long I stopped asking him for rides because of the fuss he'd make.

Clint kept total control of the money - he said he earned it so he'd spend it. I didn't even have a checking account or credit cards. He would give me a small allowance each week, unless he decided I had done something wrong.

At first I tried not to dwell on Clinton's behavior. I was living in this beautiful new home, far nicer than the house I grew up in. I had a lovely son who I cared deeply for. Besides, when Clinton wasn't angry he could be very loving and generous, especially after he'd lost his temper. He'd come home after a fight with a beautiful gift and we'd be very romantic and passionate.

In 1989 Clinton became physically violent with me. He had pushed me down a few times while I was pregnant in 1988, but I guess I overlooked it. On Mother's Day 1989 he became enraged when he found a post card from an old boyfriend in the mail. He confronted me with it while I was playing with Chip in the yard. After pushing me down on the ground he threw a baseball at my head. It cut my forehead and I was taken to Dr. Crown for stitches. On the way Clint repeatedly apologized. The doctor was a long-time friend of the Osborn family's. I didn't want to embarrass Clint so we made up a story about how it happened.

The Donna Osborn Case

A Mock Trial by Peter Pappas - All characters and incidents are fictitious.

For a while Clint treated me better, but soon he became abusive again. On March 5, 1990 he came home from work upset by a stock deal that fell through. When I asked him how it happened he blew up at me and yelled that I was too stupid to understand. He shoved me out of his way. I fell backwards down a small flight of stairs and broke my arm. He became very apologetic and took me to Dr. Crown for treatment. I couldn't bring myself to tell the doctor the truth. Instead we all joked about how clumsy I am.

A few days later I made my first call to Options For Battered Women. They explained their services. I thought things would get better, so I didn't accept their help. They were comforting to talk to, I was feeling very isolated. Both my parents are dead and it was hard to go to Clint's mother for help. She could be quite critical of me. I think she only cared about her son, her grandson, and the Osborn family name.

In the fall of 1990, I thought I might like to go back to teaching part-time. I contacted a former professor who was now the new chair of English at MCC. He had an opening and hired me right over the phone to teach an intro class in January 1991. Just before Thanksgiving I told Clint of my plans. He flew into a rage and said that I belonged at home with his son. Things escalated and he knocked me to the ground and wacked me in the side with his golf club.

By the next day it was clear that I had to see a doctor. On the way there he said he would agree to me teaching if I didn't tell the truth about what happened. I lied again to Dr. Crown, but I did call OBW to talk to them about it. I didn't take any referrals at the time because I thought things might change.

My teaching assignment began in January 1991 and Clint reluctantly drove me to and from my first three classes. I loved teaching again and the chance to meet people. I worked closely with a fellow teacher - Jack Mathews. He was so patient and understanding, I had forgotten how nice some men are.

On the night of February 7, classes were dismissed early. Jack and I stayed behind and sat and talked. I didn't tell him about Clint's abuse, but I'm sure he knew I was unhappy at home. He described his failed marriage to me. He was a very gentle and sensitive man.

Suddenly Clint appeared at the door and ordered me out of the room. I knew from his expression that I could expect another beating at home. I walked out without saying a word. When we got home he accused me of having an affair with Jack. Things only got worse when Jack called the house that night. Jack must have known more about Clint than I realized because I guess he called 911. Clint had struck me in the head and I was bleeding badly when the police arrived.

Clint stood by the door and told the officer that I had fallen and that we were just going to the doctors. He was so calm and convincing that soon the officer was apologizing for keeping us from leaving. I might have told the police what really happened, but Clint had them out of the house before I had a chance. After they were gone, Clint started in on me again calling me disgusting names and accusing Jack and I of an affair.

That night for the first time Clint threatened to kill me. He told me if I went back to school he would "blow my head off: with his hand gun. He described what the gun would do to my

The Donna Osborn Case

A Mock Trial by Peter Pappas - All characters and incidents are fictitious.
head. For the next few days I lived in constant fear. I was afraid the slightest thing might provoke Clint to carry out his threat. I was convinced he'd kill me and felt there was nothing I could do to stop him. I was paralyzed with inaction, until I saw Chip beating his teddy bear with a toy tennis racket. He just kept pounding it and shouting "whore... bitch... whore... bitch." Seeing what Clint's sickness was doing to my son gave me the courage to call Jack and OBW.

By February 13, Clint had become transformed. He stayed home from work and wandered through the house and grounds. He kept uttering "It's over... it's over... it's over." On the 14th he told me that he wanted me to wear a special outfit he had bought me. He said, "Today's Valentine's Day and I want to remember you always in that dress. Besides you won't be going to class tonight, will you?"

I knew he would kill me at any moment. All I could think to do was hide his gun. Around 6 pm I was in the family room. The gun was under the cushion of the chair where I sat with Chip. Clint suddenly appeared at the door and calmly said, "I know that you've taken my gun. But that's OK, you keep it. Because I'd prefer to use a baseball bat.... Do you know what I can do to your head with a bat? Jack won't even recognize you."

He slowly turned and stepped toward the door leading to the garage. He said "wait here, while I get a special present for you." As he stepped into the garage I set Chip down and took the gun from under the cushion. I stood there and held the gun in my hand as Clint reached for his bat hanging on the wall rack. I heard a series of loud bangs followed by a deadly silence. Clint slumped to the floor and didn't move. I stood frozen looking at what I had done. Chip was crying. I closed the door to the garage. I called and reported the shooting to the police and sat rocking Chip in his room until they arrived.

I HAVE READ THE FORGOING STATEMENT AND IT IS TRUE TO THE BEST OF MY KNOWLEDGE. I MAKE THIS STATEMENT VOLUNTARILY.

Thomas Rivera
Notary Public
SWORN TO BEFORE ME ON _____

Donna Osborn

WITNESS STATEMENT

Lee Harris

LEE HARRIS, being duly sworn, deposes and says:

My name is Lee Harris. I live at 276 Craig Road in Rochester, NY. I have been on the staff at Options For Battered Women for ten years, for the last three, I have been its director. I have a MSW in social work.

OBW provides a number of services to families involved in domestic violence. These services include: a telephone hotline, group counseling for battered women and their children, a children's therapy program, and a temporary shelter for women and children. The shelter can house people for up to 30 days until they can find more permanent or safe housing.

OBW refers women to other agencies and programs in the community such as the Department of Social Services, Drug and Alcohol programs, and volunteer legal services. OBW also assists women in obtaining Orders of Protection.

I have reviewed the records of Donna Osborn and her calls to our hotline telephone. In some cases I spoke directly with her, otherwise her calls were handled by a hotline counselor.

Our records show that Donna first called our hotline on March 7, 1990. At that time she reported that she had been pushed down a flight of stairs by her husband Clinton Osborn. Her broken arm was set by Dr. Crown on March 5. She also reported at that time that she had been subjected to verbal abuse, pushing and shoving by her husband since the summer of 1988. The phone counselor described the OBW services that were available, but Ms. Osborn did not express an interest in any programs or accept any referrals to other agencies.

Ms. Osborn next called our hotline on November 23, 1990 to report that on November 19 her husband had hit her in the ribs with a golf club. She was examined by Dr. Crown and was found to have two broken ribs. Again OBW services and referrals were offered and declined by Ms. Osborn.

On February 8, 1991 I spoke to Ms. Osborn when she called to report a beating from her husband the previous evening. She reported injuries to her head, which required doctor's attention and 12 stitches. She stated that the police responded to a 911 call but they left after no charges were filed. For the first time she stated that she was in fear of her life because of the increase of verbal and physical abuse. I described our temporary shelter service, but she did not register for our program.

I last spoke to Ms. Osborn on February 12 when she called to report a dramatic escalation of verbal abuse and her husband's repeated threats to kill her. I again described our temporary shelter services and strongly urged that Ms. Osborn consider seeking temporary refuge away from her husband. Unfortunately all units were filled at that time so I urged her to seek immediate refuge at a friend's or a motel.

The Donna Osborn Case

A Mock Trial by Peter Pappas - All characters and incidents are fictitious. She stated that she would call to see if there were any available units, or tell me if she had moved elsewhere. She never called again. Instead I was contacted by Ms. Osborn's attorney who requested a witness statement.

I HAVE READ THE FOREGOING STATEMENT AND IT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Thomas Rivera
Notary Public

Lee Harris

SWORN TO BEFORE ME ON _____

WITNESS STATEMENT
Jack Mathews

JACK MATHEWS, being duly sworn, deposes and says:

My name is Jack Mathews. I am 36 years old, separated from my wife, and live at 255 Park Ave. in Rochester, NY. I am currently finishing my PhD in American Literature and I teach English at MCC and SUNY Brockport. I first met Donna Osborn at MCC back in January 1991. She was a new part-timer and I had been asked to help her get acquainted.

Donna appeared a bit shy, but very competent and eager to begin teaching. I was quite impressed with her and I was pleased to have someone with her qualifications as a colleague.

During the first three weeks of class, Donna and I met for coffee during class breaks. We generally discussed the progress of her course. On February 7, classes were dismissed early because of a basketball game. After the students left, Donna and I lingered in the room. It was our first real chance to get to know one another. We didn't speak much of our personal lives, but a few matters did come up. She spoke of the demands of a young child and her feelings of isolation at home. She said that she hoped that things "would be changing soon." She hoped she could get a full-time position in the near future.

From what she said I thought that she was unhappy with her situation and looked to a career as a refuge. I was going through a difficult separation at the time and I told her that I thought that teaching was a good escape from the stress of an unhappy marriage.

It wasn't long after I made that comment that I first met Clinton Osborn, Donna's husband. We were midway through our second cup of coffee when this man rushed into the room, grabbed Donna by the arm and spun her abruptly. She looked startled. The man squeezed her arm tightly and glared at her. She meekly said "Hello Clinton" and then followed him silently out of the building.

I was left speechless by the whole scene, but in a moment I noticed she had left her textbooks. I went back to my office to take care of a few matters and then called her about her books. Donna answered and sounded very distressed. She said not to worry about her, that her husband was just in a hurry. Just then I heard a man's voice say "what's wrong...you miss him already?" The receiver hit something and I thought I heard the sound of a slap and Donna whimper "please don't". Then the phone went dead. I'm not one to get involved, but on a hunch I called 911 and gave Donna's address.

The next day Donna called and we talked for nearly an hour. She was hesitant at first but soon she poured her heart out to me. She told me about what was going on with Clint. She described years of physical abuse and isolation. She said that she couldn't take it any longer. She said that "it had to end soon" because she could see that he was growing more violent. She was in great fear for herself and her son. I urged her to stand up for herself

and her son. I told her that she didn't have to take it because there are people who appreciate her. People who would help her. I urged her to get help and leave him.

All of this happened quickly. One minute I was minding my own business, and the next I was involved in the affairs of a married woman with a violent husband. I'm not the type to do this sort of thing it's just that I couldn't stand to see such a beautiful person abused by a tyrant.

We spoke on the telephone on a few more occasions over the next few days. She said that Clint wouldn't take her to class any more and feared losing her job. I said that I would take care of her and could get her to and from class.

The last time I spoke to Donna was on the morning of February 12. She told me that she hoped that Clinton would change his mind and drive her to class. I reminded her to call me if she needed help. The last thing she said to me was "It has to change soon. Clint and I can't go on like this. I won't let him control me like this anymore. If he won't come to his senses then I'll move out. One way or another I'll be free."

I never saw or spoke to Donna after that morning. She never called or showed up at MCC on February 14, so I covered her class for her. I never saw Clinton after that first night at school or even knew what happened to him until I heard the reports on TV. The police came to my office on February 16 and asked me if I'd be willing to give a statement.

I HAVE READ THE FOREGOING STATEMENT AND IT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Thomas Rivera
Notary Public

Jack Mathews

SWORN TO BEFORE ME ON _____

Sworn Statement of Kim Lenore

My name is Kim Lenore. I am an expert in the area of the psychological disease and debilitation known as “battered woman syndrome.” I hold an Ed. D. in Education from SUNY-Albany, a M.A. in Education from SUNY-Binghamton and a B.A. in Psychology from Cornell. I have written numerous articles in scholarly and popular journals on the issue of battered women’s responses to male violence. My book, entitled *Men who Hurt Women and the Women Who Kill Them*, is the seminal treatise on the “battered woman syndrome.” There are presently numerous experts on this subject, but I was the first. I started this. As a result of my studies, writings and testimony since 1988, this psychological syndrome is now recognized in many states as legitimately included within the defense of justification (self-defense). In connection with my expertise in this area, I have been privileged to testify in over 25 cases on behalf of women who responded properly to violent abuse from their significant others (usually but not always their husbands). My standard fee is \$2,500.

I have examined Donna Osborn, age 28. I met with her three times for 45 minutes each and have exhaustingly reviewed the written records and statements in this case. Donna Osborn was an abused spouse. I’m certain of it. Her life, after marrying Clinton Osborn II, completely fits the profile of a battered woman. Her behavior is classically symptomatic of the behavior of battered women in similar circumstances. The psychological underpinnings of the battered woman syndrome were all present here. It is a psychological syndrome based on the theory of learned helplessness and the cycle theory of violence. When someone becomes prey to the psychological condition of learned helplessness, it distorts their feelings, beliefs and behavior so that they react as though they do not have the ability to control what happens to them. This provides us with a scientifically based explanation for understanding why women, when treated as Donna was, do not simply leave or “escape.”

There are four stages of the battered woman syndrome. First, there is denial. A woman suffers repeated beatings, terribly verbal and physical abuse and privation, and she refuses to admit it. She looks outside the marriage as a source of the problems. Here, Donna believed initially that Clinton’s “hand slipped” and that it was the pressures of the office, which made him angry. When she had to explain her cuts and bruises, she described them as the result of “accidents,” even to the family doctor and police. After each episode, she hoped and prayed, to the point of convincing herself, that the violence would not be repeated.

Second, there is guilt. Donna convinced herself that she was the cause of the problem, not Clinton. Donna convinced herself that she was the cause of the problem, not Clinton. She was not a good enough homemaker, wife, mother. She convinced herself that it was her deficiencies and defects, which prompted him. Dinner was too hot or too cold. His shirts were not back from the cleaners on time. If she bought a new outfit each season, she thought herself a spendthrift and understood Clinton’s beating as an attempt to change her. For most of the marriage, Donna convinced herself that she was behaving in a manner,

which did not meet her spouse's expectations. She thought Clinton worked hard to support her and their child. She thought he deserved the best.

During this period, Donna's sense of isolation was heightened. Clinton had forced her to terminate her old friendships. She could only socialize with his mother. Additionally, she had come to be completely financially dependent on him. His name alone was on the bank account. He gave her one signed check a week for groceries. He threatened to take the children, reminding her that she was incapable of supporting herself, let alone the children.

The third stage is the beginning of the change; we call it "enlightenment." Slowly, Donna came to recall who she was before she married Clinton. She remembered her dreams and goals. She's a smart, educated person. It came to her that no one deserves to be beaten, especially not with a golf club. Incidentally, the method of Clinton's physical abuse is consistent with that of most such men. Generally, they have a SOP (Standard Operating Procedure) or motif. Here, Clinton, the driven competitor, used sports equipment. In his hands, the golf club, hockey stick or baseball was not a sporting implement but a deadly weapon. While Donna came to recognize that she was not at fault, she was still committed to making the marriage work. She believed that she was smart enough to help Clinton help himself.

Lastly, there is responsibility. This was exhibited by Donna during early 1991. She slowly realized that the abuse would not stop and she must think about the future for herself and young Clinton. First, she had to break the chain of financial enslavement. She got a job. The type of job, college instructor, provided a massive injection to her self-esteem. But Clinton was still controlling. She could not get to or from her job without him. She was not permitted faculty contact, as demonstrated by the coffee shop incident and Clinton's response after Jack Mathews' call to their home. Finally, she came to believe that Clinton may well kill her. She understood that her own life was threatened. While it is true that the repeated beatings, while terrible, were not life threatening, Clinton had repeatedly expressed his willingness to end her life. All of this was playing through Donna's mind on February 14, 1991. Simply stated, Donna Osborn had no choice but to respond to the abuser's picking up the bat and threatening to knock her head off except to fire her gun at him.

Dated: September 15, 1991
Rochester, New York