

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

A 89.11: 980/1-2

only 1 received

ALERT

JANUARY — FEBRUARY 1980

MAINE DEPARTMENT OF
THE ATTORNEY GENERAL

MAINE CRIMINAL
JUSTICE ACADEMY



MAINE STATE LIBRARY

DOMESTIC VIOLENCE

MESSAGE FROM THE ATTORNEY GENERAL RICHARD S. COHEN

For nearly 10 years the ALERT Bulletin has provided Maine's criminal justice community with regular, up-to-date information on developments in criminal law and procedure and in related areas. For many criminal justice personnel, ALERT has provided the only source of continuing education and training after their initial orientation. There is virtually nothing currently available to replace the ALERT in providing concentrated coverage of the continuing evolution of law and procedure in the criminal justice system in Maine.

Despite all efforts by this office, severe financial restraints place the future of the ALERT Bulletin in immediate jeopardy. The uncertain publishing schedule of the ALERT during the past year has been a symptom of that financial situation. We have reached the point, however, where sufficient funds to research, write, and publish ALERT are simply unavailable either within the Attorney General's Office or from other possible funding sources. As a result, the only way I can see ALERT continuing is through subscription support from its readers.

We estimate that the ALERT Bulletin can become self-sustaining if approximately half of its current readers are willing to pay \$10 per year to receive it. In order to determine whether to continue its publication, we must ascertain how many individual readers of ALERT are willing to make this \$10 per year commitment. Enclosed with this issue of ALERT, therefore, is a stamped post card re-

The Second Regular Session of the 109th Maine Legislature recently amended a law, originally enacted at its First Regular Session, entitled An ACT Concerning Abuse Between Family or Household Members. The law, as originally enacted, did not go into effect because of various procedural technicalities. The law, as recently amended, however, will go into effect on July 3, 1980. The originally enacted law is referred to as Chapter 578 of the Public Laws of 1979. The amendment to the law is referred to as Chapter 677 of the Public Laws of 1979. For purposes of brevity, the new law and its recent amendments will be referred to as the "new domestic violence law" in this article.

questing such a commitment. Please check the appropriate box and return the cards to this office as soon as possible, whether or not you are willing to make the commitment. I REPEAT AND REEMPHASIZE THAT UNLESS WE RECEIVE A SUFFICIENT NUMBER OF COMMITTED SUBSCRIBERS, THE ALERT BULLETIN WILL CEASE PUBLICATION.

Because the present ALERT mailing list is incomplete many active criminal justice personnel will receive neither an issue of this month's ALERT nor a post card requesting a subscription commitment. I therefore request all chiefs and heads of agencies to make sure that all their personnel receive a copy of this month's ALERT and a post card. You may obtain as many copies of ALERT and post cards

The new domestic violence law was enacted to address the immediate problem of inadequate protection, both criminally and civilly, for adult victims of domestic violence. The new law does not deal with child abuse which was discussed in the January and February 1977 issues of the ALERT Bulletin. This issue of ALERT is designed to acquaint law enforcement officers with the problem of abuse between adult family and household members, procedures in the new law and elsewhere for dealing with the problem, and services and facilities available to abused family and household members.

as you need by writing the Department of the Attorney General, Criminal Division, State House, Augusta, Maine 04333, or calling us at 289-2146.

I thank you for your past interest and support of the ALERT. It bespeaks your commitment to professionalism. I am hopeful that the receipt of a strong positive reply to the enclosed subscription commitment will enable us to continue to supply high quality professional information to Maine's criminal justice community.

RICHARD S. COHEN
Attorney General

THE PROBLEM

Domestic violence is a serious problem both in Maine and in the rest of the United States. Growing national concern over domestic violence is reflected in books, magazine articles, legal analyses, and empirical studies which have appeared on the subject in recent years. The literature and the people who have dealt with the problem first-hand, as victims, law enforcement officers, or other crisis intervention personnel, report that domestic violence is a continuing nightmare for its victims and is one of the most dangerous areas for law enforcement personnel.

Accurate statistics are not yet available on the prevalence of domestic violence, largely because of underreporting by both victims and police. The F.B.I. estimates that less than one in ten incidents of abuse between spouses is reported. Nevertheless, estimates of agencies and organizations dealing with various aspects of the problem of domestic violence convey some idea of the scope of the problem nationwide:

— The National Center on Women and Family Law in New York and the Center for Women Policy Studies in Washington, D.C. both believe, based on extensive reviews of available information, that abuse between spouses occurs in 12 percent of all households nationwide.

— The Women's Bureau of the Department of Labor estimates that approximately 40% of all American marriages will experience at least one incident of violence, 15 to 20% will experience violence periodically, and at least 5% will be plagued by chronic wife-beating.

— The F.B.I. estimates that approximately 1.8 million women are assaulted by their husbands each year.

— The National District Attorneys Association has

reported that 31 percent of all murders are between family members, and of these, one-half are between spouses. The Association estimates that 3.8 percent of all families in the country will have an aggravated assault occur between family members.

Accurate statistics on domestic violence in Maine are also unavailable, again largely because of underreporting. No systematic studies of the problem have been done and, therefore, no agency or organization in the State has an accurate idea of the magnitude of the problem. Nevertheless, when underreporting and other factors are taken into account, the general consensus of experts in Maine is that there are approximately 48,000 incidents of domestic violence in this state each year.

According to available data, most reported domestic violence involves a man beating his wife or the woman with whom he is living. Women from all social and economic levels of our society are victims of violent beatings by their husbands or male partners. One-fourth of the women beaten are pregnant at the time of the beating.

Battered women who have discussed their beatings with enforcement and medical authorities report the following as typical patterns of abuse:

1) the beatings of the women by the man do not stop, even though the man may apologize later and promise not to beat the woman again;

2) the beatings often become more severe and more frequent over a period of time;

3) the onset of a beating may occur with no provocation by the woman, such as while the woman is sitting quietly or sleeping;

4) the man who has beaten only his wife, and not his children, at some point eventually turns his violence against his children;

5) Beatings are not necessarily a

product of the man's abuse of alcohol, but alcohol abuse may increase the frequency or severity of the beatings or trigger their onset.

Battered women who have suffered violent beatings over extended periods of time give the following reasons for staying with their husbands or partners:

1) the woman was afraid of what the man would do to her and her children if she tried to leave him;

2) the woman thought the man would change and stop beating her;

3) the woman had no one to turn to and did not know where to go for help;

4) the woman had no money and had no safe place or shelter to which she could go;

5) the woman believed that she was at fault and that she had no worth as a person;

6) the woman believed she had to keep her husband and family together at all costs, despite the pain and danger;

Many women who left their husbands or partners to escape further beatings did so only when they believed that their lives and their children's lives were in danger. Many of the women who left homes where there was domestic violence went to live in temporary shelters for battered women and children until they could become self-sufficient. Some of these women have moved to other states to begin new lives under new names, to protect their safety and that of their children. Some battered women have eventually reconciled with their husbands or partners after the man or the couple accepted counseling and medical and psychiatric treatment.

Violence between a man and woman usually affects other family members and may

perpetuate itself in future generations. Where there is a beating of a woman, there may also be beating and sexual abuse of children. Children who have seen their parents beat each other or their children are likely to grow up to repeat the behavior themselves.

Another important aspect of the problem, from the standpoint of the law enforcement officer, is that domestic violence is a dangerous area for law enforcement intervention. Domestic violence may first come to the attention of a law enforcement agency when a call for assistance is received. Available statistics show that a large percentage of emergency assistance calls involve abuse between family or household members.

Officers report that domestic violence is one of the most difficult emergencies for police intervention. Often, either the man or woman or both will be hostile to the officer who arrives on the scene. Sometimes either or both will attack the officer. The results can be disastrous for all involved. 25% of all law enforcement officers killed in action were killed while answering a call for help involving domestic violence. 28% of all officers injured in action were injured while answering domestic violence calls.

The foregoing discussion and statistics suggest the nature, complexity, and potential dangers of the problem of domestic violence. This article will not attempt to deal with the root causes of and solutions to the problem. Rather, this article will attempt to prevent the continuation or escalation of existing abuse, and thereby alleviate some of the suffering, by providing information on existing laws, procedures, services and facilities dealing with the problem, with particular emphasis on the new domestic violence law mentioned earlier.

LAWS AND PROCEDURES

Before the enactment of the new domestic violence law, few laws outside the criminal law dealt with the problem of abuse between family or household members. The existing legal remedies were often not enforced or inadequately enforced because domestic violence was treated as a private family problem or as an alcohol-related problem. Furthermore, many of the criminal laws were flawed because arrests for Class D crimes such as criminal threatening could not be made on probable cause, but could only be made if the crime were committed in the officer's presence. The new emergency legislation remedies this problem with the criminal law and goes on to establish specific *civil* procedures to deal with incidents of domestic violence. This section of the article will briefly discuss the existing criminal statutes applicable to domestic violence cases and will discuss in detail the civil procedures enacted as part of the new domestic violence law, with particular emphasis on the responsibilities of law enforcement officers.

Criminal Laws

Many existing criminal statutes are applicable to incidents of domestic violence. Arrest for violation or attempted violation of these statutes is one way in which a law enforcement officer may resolve a domestic violence situation. The crimes defined in these statutes will not be reproduced or discussed here, for purposes of brevity, but will merely be listed together with their citations and class designations.

Title 17-A	Crime	Class
§201	Murder	(See 17-A MRSA §1251)
§202	Felony murder	A
§203	Manslaughter	A or C
§204	Aiding or soliciting suicide	D
§207	Assault	D
§208	Aggravated assault	B
§209	Criminal threatening	D

§210	Terrorizing	C or D
§211	Reckless conduct	D
§252	Rape	A
§253	Gross sexual misconduct	B or C
§301	Kidnapping	A or B
§302	Criminal restraint	D
§303	Criminal restraint by parent	E
§506-A	Harrassment	E
§556	Incest	D

Before the enactment of the new domestic violence law, a law enforcement officer had authority to arrest without a warrant a person who he had probable cause to believe had committed or was committing only the following crimes:

- 1) Murder;
- 2) Any Class A, Class B, or Class C crime; or
- 3) Assault, if the officer reasonably believed that the person committing the assault might cause injury to others unless immediately arrested.

An officer had authority to arrest without a warrant for any of the Class D or Class E crimes listed above, only if the crime was committed in his presence. Officers were therefore severely restricted in their options if they came upon a domestic violence situation *after* one of the class D or Class E crimes had been committed. In order to make an arrest, an officer had to go through the time-consuming process of obtaining an arrest warrant. Because scenes of actual or threatened domestic violence are often volatile situations requiring immediate action, an officer's taking the time to obtain an arrest warrant could be counter-productive to the effective resolution of the situation.

The new domestic violence law remedies this problem by expanding the law enforcement officer's power to arrest without a warrant to persons who he has probable cause to believe have committed or are committing the Class D crimes of Assault, Criminal threatening, Terrorizing, or Reckless conduct. *The officer*

must, however, reasonably believe that the person and victim are "family or household members." (17-A M.R.S.A. §15(1) (A) 5-A)

"Family or household members" is defined in the new domestic violence law to mean "spouses or former spouses, individuals presently or formerly living as spouses or other adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute 'living as spouses.'" (15 M.R.S.A. §301(1)) This definition should be self-explanatory except that the terms "consanguinity" and "affinity" may need further clarification. "Consanguinity" simply means blood relationship. Adult household members related by blood would include parents and adult children or adult brothers and sisters. "Affinity" means relationship by marriage. Adult household members related by marriage would include a spouse or former spouse and his or her mother-in-law or brother-in-law.

It should be reemphasized that the expanded warrantless arrest power granted by the new emergency legislation only applies if *both* elements discussed above are present. Those elements are (1) that the law enforcement officer has probable cause to believe that a person has committed or is committing the crime of Assault, Criminal threatening, Terrorizing, or Reckless conduct, and (2) that the law enforcement officer reasonably believes that the person to be arrested and his victim are "family or household members." Moreover, the expanded arrest power may be exercised in both public and private places. It is not limited to domestic violence situations in the home, although it may prove most useful in those situations.

The new domestic violence law also affects the arrest authority of law enforcement officers for the crime of Aggravated assault (17-A

M.R.S.A. §208) in a significant way. If the officer has probable cause to believe that a person has committed or is committing aggravated assault, and the alleged offender and the victim are family or household members the officer *must* arrest and take into custody the alleged offender. (19 MRSA §770(5)). The new law, in effect, takes away the officer's discretionary power to arrest in this instance, and replaces it with a mandatory duty to arrest.

Finally, the new domestic violence law requires law enforcement officers to treat incidents of domestic abuse with the same degree of seriousness as other criminal violations. 19 M.R.S.A. §770(4) specifically states that "[a] law enforcement officer at the scene of an alleged incident of abuse shall use the same standard of enforcing relevant Maine Criminal Code sections when the incident involves family or household members as when it involves strangers."

The New Civil Procedures

The major substance of the new civil procedures dealing with abuse between family or household members appears in the newly enacted 19 M.R.S.A., Chapter 14, entitled *Protection from Abuse*. The purposes of the new chapter are set out in 19 M.R.S.A. §761, which reads as follows.

§761. Purpose

The purposes of this chapter are:

1. Protection. To allow family and household members who are victims of domestic abuse to obtain effective, short-term protection against further abuse so that the lives of the nonabusing family or household members will be as secure and as uninterrupted as possible;

2. Prevention. To expend the ability of law enforcement officers to effectively respond to situations

of domestic abuse so as to prevent further incidents of abuse and to assist the victims of that abuse; and

3. Data collection. To provide for the collection of data concerning domestic abuse in an effort to develop a comprehensive analysis of the incidence and causes of that abuse.

Before discussing 19 M.R.S.A., Chapter 14 in detail, the definitions of terms used throughout the Chapter, as set out in 19 M.R.S.A. §762, will be reproduced:

§762. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. Abuse. "Abuse" means the occurrence of the following acts between family or household members:

A. Attempting to cause or causing bodily injury or offensive physical contact; or

B. Attempting to place or placing another in fear of imminent bodily injury.

2. Adult. "Adult" means any person 18 years of age or older or any person under 18 years of age who is emancipated from the legal control of his parents or guardian.

3. Court. "Court" means any district or superior court.

4. Family or household members. "Family or household members" means spouses or former spouses, individuals presently or formerly living as spouses or other adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute "living as spouses."

5. Law enforcement agency. "Law enforcement agency" means the State Police, a sheriff's

department or a municipal police department.

Procedures to Obtain Protection from Abuse

Any adult who has been abused by a family or household member may seek relief by filing a complaint alleging the abuse in the District Court or Superior Court of the division or county in which either the plaintiff or the defendant resides. If the plaintiff has left his residence to avoid abuse, he may bring the complaint in the division or county of his previous residence or of his new residence. No fee will be charged for forms or for filing a complaint. The court will provide necessary forms and clerical assistance to either party for completing and filing a complaint or other necessary documents. This assistance will not include legal advice or assistance in drafting legal documents. A plaintiff may apply for permission to proceed in forma pauperis, which simply means without liability for court fees or costs. (19 M.R.S.A. §§763 and 764). All proceedings will be conducted in accordance with the Maine Rules of Civil Procedure and may be independent of or joined with a proceeding for divorce, dissolution of marriage, legal separation, or separate maintenance. The plaintiff's right to relief is not affected by his use of reasonable force in response to abuse by the defendant. Voluntary intoxication of the defendant is not a defense to a plaintiff's action for relief. (19 M.R.S.A. §768)

Within 21 days of the filing of the complaint, the court must hold a hearing at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. ((19 M.R.S.A. §765(1)) Preponderance of the evidence means the more convincing or credible evidence or the evidence with the greater weight, when

compared to the evidence in opposition.

Temporary and Emergency Orders

In order to protect the plaintiff during the period between the filing of the complaint and the hearing, the court may issue a temporary order upon showing by the plaintiff of an immediate and present danger of physical abuse. (19 M.R.S.A. §765(2)). This temporary order may provide for the care and custody of any minor children residing in the household and may prohibit the defendant from engaging in any of the following activities:

- A. Imposing any restraint upon the person or liberty of the plaintiff;**
 - B. Threatening, assaulting, molesting, harrassing or otherwise disturbing the peace of the plaintiff;**
 - C. Entering the family residence or the residence of the plaintiff; or**
 - D. Taking, converting or damaging property in which the plaintiff may have a legal interest.**
- (19 M.R.S.A. §765(4))

If the plaintiff is unable to file a complaint because the court is closed, and no other provision can be made for the shelter of an abused family or household member, the plaintiff may obtain emergency relief by filing a complaint before an appropriate District Court Judge or Superior Court Judge. Upon the plaintiff's showing of immediate and present danger of physical abuse, the judge may issue a temporary order as described in the preceding paragraph. Such an emergency temporary order will be immediately certified to the clerk of the District Court or Superior Court in the Division or County in which a complaint might originally have been brought if the court had not been closed. The

emergency temporary order, once certified, has the same effect as a complaint in instituting proceedings against the defendant and remains in effect until the hearing. (19 M.R.S.A. §765(3)) If the court issues a temporary order or if it orders emergency or interim relief, it will order a law enforcement agency to personally serve the order on the defendant. The order should be served on the defendant as soon as possible under the circumstances. To further protect the plaintiff, the court may order the omission or deletion of the plaintiff's address from any papers served on the defendant. (19 M.R.S.A. §765 (4-A))

19 M.R.S.A. §765(5) sets up a procedure by which a person subject to a temporary order may obtain a dissolution or modification of the order.

A violation of a temporary, emergency, or interim protective order, when the defendant has prior actual notice of it, is a Class D crime. (19 M.R.S.A. §769(1)) Like an arrest for Assault, Criminal threatening, Terrorizing, or Reckless conduct, discussed earlier, an arrest for a violation of a temporary, emergency, or interim protective order may be made without warrant upon probable cause, whether or not the violation is committed in the presence of the police officer. Moreover, if a law enforcement officer has probable cause to believe that there has been a criminal violation of a temporary, emergency, or interim protective order, he *must* arrest and take into custody the alleged offender. (19 M.R.S.A. §770(5)) This requirement is similar to the mandatory duty to arrest for the crime of aggravated assault, when the alleged offender and victim are family or household members, which was discussed earlier.

Relief

After hearing, and upon finding that the defendant has committed

the abuses alleged, the court may either grant the plaintiff a final protective order or may approve a consent agreement between the plaintiff and defendant, in order to bring about a cessation of abuse. 19 M.R.S.A. §766(1) sets out the following powers that the court may exercise through a final protective order or consent agreement:

A. Directing the defendant to refrain from threatening, assaulting, molesting, attacking or otherwise abusing the plaintiff and any minor children residing in the household;

B. When the mutual residence or household of the parties is jointly owned or jointly leased:

(1) Granting possession of the residence or household to one party with the exclusion of the other; and

(2) Restoring possession to one party;

C. When one party has a duty to support the other or their minor children living in the residence or household and that party is the sole owner or lessee:

(1) Granting possession of the residence or household to the dependent party with the exclusion of the other party by ordering his removal;

(2) Restoring possession to the dependent party; or

(3) By consent agreement, allowing the supporting party to provide suitable, alternate housing;

D. Ordering a division of the personal property and the household goods and furnishings of the parties and placing any protective orders deemed appropriate by the court;

E. Either awarding temporary custody of minor children or establishing temporary visitation rights with regard to minor children where the visitation is deemed to be in the best interest of the child, or both;

F. Requiring either or both parties to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court deems appropriate;

G. Ordering the payment of temporary support for the dependent party or any child in his custody, or both when there is a legal obligation to support that person;

H. Ordering the payment of temporary support payments to the State as provided under chapter 7;

I. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses shall be limited to: Loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded;

J. Ordering the defendant or, if the complaint is dismissed, the plaintiff, to pay court costs or reasonable attorney fees; or

K. Entering any other orders deemed necessary or appropriate in the discretion of the court.

To further protect the plaintiff, the court may order the omission or deletion of the plaintiff's address from any papers available to the public.

The court is required to make a final protective order or approved consent agreement effective for a fixed period not to exceed one year. An order or agreement may be modified by the court as circumstances require, upon the motion of either party, and may be extended by the court upon the motion of the plaintiff. A final protective order or consent agreement must indicate, clearly and conspicuously, the consequences of a violation.

19 M.R.S.A. §767 requires the clerk of the court to issue, without fee, a copy of an order, agreement, amendment, or revocation to the plaintiff, to the defendant, and, as the court directs, to the law enforcement agencies most likely to enforce the order or agreement. Every law enforcement agency, therefore, will receive copies of all orders or agreements which they are likely to enforce, and should develop a system for filing them for easy reference.

Violation

A violation of a final protective order or a court approved consent agreement, when the defendant has prior actual notice of the order or agreement, is a Class D crime with one exception. If the *only* provision of the order or agreement which was violated concerned relief authorized under §766(1) paragraphs F through K (See above under *Relief*), the violation is *not criminal* but is treated as contempt and punished in accordance with the law relating to contempt. A law enforcement officer may *not* arrest for a violation of a provision of an order or agreement authorized under §766(1) paragraphs F through K. (Paragraphs F through K deal only with counseling and the payment of money.)

An arrest, however, for a violation of a provision of an order or agreement authorized by §766(1) paragraphs A through E (which is a Class D crime) may be made without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. (19 M.R.S.A. §769(2)) Moreover, if a law enforcement officer has probable cause to believe that there has been a criminal violation of a final protective order or a court approved consent agreement, he *must* arrest and take into custody the alleged offender. (19 M.R.S.A. §(5)) This requirement

is similar to the mandatory duty to arrest for the crime of Aggravated assault, when the alleged offender and victim are family or household members, which was discussed earlier.

Conviction or Criminal Action Pending

15 M.R.S.A. §301(2) gives the court additional authority to issue a protective order under the following conditions:

- A. A person is charged with or convicted of a violation of Title 17-A, sections 201 to 204, 207 to 211, 252, 253, 301 to 303, 506-A or 556;**
- B. The offender and the victim are family or household members; and**
- C. The court finds that there is a likelihood that the offender may injure the health or safety of the victim in the future.**

The protective order may require the offender:

- A. To stay away from the home, school, business or place of employment of the victim;**
- B. Not to visit, or to visit only at certain times or under certain conditions, any child residing with the victim; or**
- C. Not to do specific acts which the court finds may harass, torment or threaten the victim.**

The protective order may be a condition of the offender's release. (15 M.R.S.A. §301(3))

15 M.R.S.A. §301(4) requires the clerk of the court to issue a copy of the protective order, amendment, or revocation to the offender, the victim, and, as the court directs, to the law enforcement agencies most likely to enforce the order. Violation of a protective order issued under 15 M.R.S.A. §301(2) is a Class D crime. An arrest for a criminal violation of such an order may be made without warrant upon probable cause, whether or not the violation is committed in the

presence of the law enforcement officer. (19 M.R.S.A. §769(2)) Moreover, if a law enforcement officer has probable cause to believe that there has been a criminal violation of a protective order, he *must* arrest and take into custody the alleged offender. (19 M.R.S.A. §770(5)) A law enforcement officer may verify, if necessary, the existence of any protective order by telephone or radio communication with a law enforcement agency with knowledge of the order.

Other Law Enforcement Duties

In the previous section, the effect of the new domestic violence law on the arrest powers and duties of law enforcement officers with respect to violations of criminal statutes, protective orders, and consent agreements was discussed. The new emergency legislation also sets out other responsibilities of law enforcement agencies and officers in dealing with abuse between family and household members. The major portion of the law dealing with law enforcement responsibilities appears in 19 M.R.S.A. §770. Various subsections of §770 will be referred to in the following discussion.

Reports

19 M.R.S.A. §770(1) requires each law enforcement agency to report all incidents of abuse by adults of family or household members as required by the State Bureau of Identification under 25 M.R.S.A. §1544. 25 M.R.S.A. §1544 was amended by the new domestic violence law to require the State Bureau of Identification to establish a category, supplementary to its other reported information, for abuse by adults of family or household members and to prescribe the information to be submitted in the same manner as for all other categories of the uniform crime reports. Each

law enforcement agency will receive instructions from the bureau on how to report incidents of abuse.

Establishment of Procedures

19 M.R.S.A. §770(2) requires law enforcement agencies to establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of abuse or violation of a protective order or consent decree can be informed of any recorded prior incident of abuse involving the abused party and can verify the effective dates and terms of any recorded protective order or consent decree. It is especially important that these procedures be efficient and promote accuracy, because a law enforcement officer's power or duty to arrest may depend on the existence or terms of a protective order or consent decree.

Officer Training

19 M.R.S.A. §770(3) requires law enforcement agencies to provide officers employed by them with an education and training program designed to inform the officers of the problems of family and household abuse, procedures to deal with these problems, the provisions of newly enacted 19 M.R.S.A. Chapter 14, and the services and facilities available to abused family and household members. Each law enforcement agency is to determine the amount and degree of officer education and training, beyond the distribution of information. It is hoped that this issue of the ALERT Bulletin will be a useful tool in providing this required education and training.

On-the-Scene Responsibilities

19 M.R.S.A. §770(6) requires that, whenever a law enforcement officer has reason to believe that a family or household member has been abused, he immediately use all reasonable means to prevent further abuse, including:

A. Remaining on the scene as long as he reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit;

B. Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital;

C. Giving that person immediate and adequate written notice of his rights, which shall include information summarizing the procedures and relief available to victims of the family or household abuse; or

D. Arresting the abusing party with or without a warrant pursuant to the guidelines discussed earlier in this article.

Because domestic abuse situations are sensitive and volatile, officers should use common sense and sound discretion to ensure that all persons, including him or herself, are protected from further injury and that the situation is made as stable as possible. The new domestic violence law is designed to give both law enforcement officers and victims of abuse a broader array of options to deal with incidents of abuse between family or household members. Poor judgment in exercising those options can only serve to aggravate an already delicate situation and lead to potentially disastrous consequences for all involved.

SERVICES AND FACILITIES

There are presently eight groups in Maine meeting various needs resulting from the problem of domestic violence. Six of these groups are part of the Maine Coalition for Family Crisis Services. Two other groups are in the developmental stage and provide only limited services, but are

closely associated with the six established groups in the Coalition. It should be kept in mind that all the agencies in the Coalition operate as a closely-knit statewide network whose purpose is to provide whatever services are needed to every victim of domestic violence in Maine. Therefore, If a particular agency does not provide a particular service, that agency will refer a victim needing that service to another agency in the coalition. Victims should contact the agency located nearest to them.

A brief summary of the services provided by each of the six agencies in the Maine Coalition for Family Crisis Services follows:

1. **Caring Unlimited** — Biddeford. Services provided include 24-hour hotline — 282-4435; emergency shelter; crisis intervention; short-term therapy; information and referral; advocacy; counseling; and education and consultation to the public.

2. **The Family Crisis Shelter, Inc.** — Portland. Services provided include 24-hour hotline — 773-5516; emergency shelter; information and referral; counseling; child care assistance; and community education.

3. **The Abused Women's Advocacy Project** — Lewiston. Services provided include 24-hour hotline — 783-2042; emergency shelter; information and referral; counseling; child development; community education; and support groups.

4. **Family Violence Assistance Project** — Augusta. Services provided include 24-hour hotline — 623-3569; emergency shelter; family volunteer homes; information and referral; counseling; support groups; and community education.

5. **Spruce Run Association** — Bangor. Services provided include 24-hour hotline — 947-6413; shelter referrals; information and referral; counseling; child

development; community education.

6. **Aroostook Task Force on Family Violence** — Caribou. Services provided include emergency shelter; emergency counseling; advocacy; community education. (NOTE: The Aroostook Task Force is working toward developing a 24-hour hotline. They can be reached by phone on a less-than-24-hour basis at 769-8251.)

The other two developing agencies associated with the Maine coalition for Family Crises Services are:

1. **Waldo Women's Shelter** — Waldo County. Services provided include crisis intervention; information and referral; and support groups. They can be reached by phone mornings at 589-4202.

2. **Womancare** — Dover-Foxcroft. Services provided include crisis intervention; information and referral; and support groups. They do not have a 24-hour hotline, but can be reached by phone at 564-7627.

Comments directed toward the improvement of this bulletin are welcome. Please contact the Law Enforcement Education Section, Criminal Division, Department of the Attorney General, State House, Augusta, Maine 04333.

ALERT

The matter contained in this bulletin is intended for the use and information of all those involved in the criminal justice system. Nothing contained herein is to be construed as an official opinion or expression of policy by the Attorney General or any other law enforcement official of the State of Maine unless expressly so indicated.

Richard S. Cohen
John S. Gleason
John N. Ferdico, Esq.

Attorney General
Deputy Attorney General
Editor