

MAINE STATE LEGISLATURE

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John Elias Baldacci
Governor

STATE OF MAINE
Department of Public Safety
104 State House Station
Augusta, Maine
04333-0104



Michael P. Cantara
Commissioner

January 30, 2006

Senator Barry Hobbins, Chair
Representative Deborah Simpson, Chair
Joint Committee on Judiciary
100 State House Station
Augusta, ME 04333-0100

Dear Senator Hobbins and Representative Simpson:

Thank you for your letter. On behalf of the Domestic and Sexual Abuse Commission, we are writing to address the issues you raised in relation to LD 1245, *Resolve, to Increase Safety for Domestic Abuse Victims*. As you indicated, a great deal of work has been done with regard to compiling recommendations in this area. What follows is primarily drawn from the report submitted to Governor Baldacci in March 2005 by the Maine Commission on Domestic and Sexual Abuse and the Governor's Advisory Council on the Prevention of Domestic and Sexual Violence. This document, which was the result of comprehensive work done by the two groups, may not address all of the issues outlined in LD 1245 but it does offer sound recommendations from leading experts in Maine on the majority of issues in which you are interested. If you have areas of particular interest that you do not feel we have adequately addressed, we would be happy to continue to work on them for you.

The joint report offers several recommendations to improve the consistency of investigative and prosecutorial procedures among state, county and local law enforcement agencies. One recommendation is to provide each prosecutorial district in Maine with a minimum of one domestic violence prosecutor and one domestic violence/sexual assault investigator based out of the District Attorney's office. Given the complexity of these cases, this would help ensure consistency across jurisdictions by creating a dedicated team to handle these difficult investigations and prosecutions. The joint report also recommends that making available information on bail conditions, parole and prior protection from abuse orders be made available to law enforcement, and that they have access to criminal history records on the laptops in their cruisers. We are pleased to inform you that since September, 2005, thanks to a collaborative effort with the court system, all bail orders, including bail conditions, are available on-line to Maine law enforcement, seven days per week, twenty-four hours a day. This will provide law enforcement with valuable information in which could help in protecting victims from unwanted, and potentially dangerous, contact with defendants.

Offices Located At:
Central Maine Commerce Center
45 Commerce Drive
Augusta, Maine 04333

(207) 626-3803 (Voice)

(207) 287-3042 (Fax)

(207) 287-3659 (TTY)

Another set of recommendations addresses the information gathering/sharing and technology section of the joint report. The recommendations are as follows:

Criminal History Records Information (CHRI) Database

- Enter dispositions of criminal cases into the State Police CHRI database
- Use the Arrest Tracking Numbers and Charge Tracking Numbers consistently and thoroughly
- Provide Arrest and Charge Tracking numbers to criminal justice entities quickly and easily
- Assign a professional with communication and technical skills to train and provide technical assistance to all who will be using the database
- Encourage full participation and enhance confidence in the system

Access to Data

- Train and provide technical assistance to law enforcement, bail commissioners, prosecutors and court personnel so they can access the databases that contain the criminal history, protection orders, warrants and other relevant information
- Provide site visits to review computer systems in agencies and provide training and technical assistance to ensure that the databases are easy to access on the agencies' existing systems

Technology Links

- Link the Department of Corrections technology with others in the criminal justice community through the use of the Corrections Information System (CORIS)
- Link all components of the criminal justice database so that common data can be transmitted electronically, instead of manually
- Link or interface the Department of Corrections system with the SBI system

Increased Electronic Access to Protection from Abuse Orders

- Expand access to protection from abuse order information to include expired orders, as well as orders granted by the court but not yet served to law enforcement officers, bail commissioners, prosecutors, and court personnel

Role of MCJUSTIS

- Hire professional and support staff for the MCJUSTIS Policy Board
- Give MCJUSTIS the legal authority to set statewide standards and determine its priorities
- Provide guidance to the Legislature and grant administrators as they appropriate funds for criminal justice technology

Use of Arrest Tracking Numbers

- When domestic violence is involved in a case, use the domestic violence indicator when assigning a charge sequence code or retrieving an arrest tracking number ensure that the indicator travels through the system into the CHRI database

These recommendations underline the need for greater systems coordination. It is recommended that the judicial system continue with and expand upon focused domestic violence and sexual assault dockets throughout the state-- especially those involving children. It would be beneficial to upgrade the technological infrastructure on a regular basis and provide adequate support so that critical information flows seamlessly and quickly to the appropriate people when decisions are made regarding domestic and sexual violence cases.

Though the joint report did not address laws governing gun possession by domestic abusers, it is important to note that progress has been made in that area, as you may know. During a protection order hearing, victims can file a request with the court that their partners not possess a gun. A judge can order this on either temporary or permanent protection orders. Federal law prohibits possession of a firearm while under a permanent protection order. The Project Safe Neighborhoods Task Force, coordinated by the United States Attorney's Office in Maine, has focused a recent media campaign on these federal laws, and has made this issue a priority in their grant awards.

To address your concern with the development of procedures for counseling abusers, the joint report recommends that prosecutors, judges and probation officers increase the use of, and enforce compliance of, certified Batterers' Intervention Programs. The Department of Corrections oversees the certification and monitors the agencies running the programs. The alternative option for batterers is anger management, which is not certified, and is therefore not subjected to the standards imposed by the Department of Corrections and the Legislature. It is our recommendation that anger management should only be used in exceptional cases, and only then after careful consideration and assessment of the offender. We should ensure that judges, prosecutors and probation officers understand the differences between these two options and assign them to certified Batterers' Intervention Programs in a majority of the cases. We are ready to help with training on this topic.

With regard to sentencing, it was recommended that Public Law 2003 chapter 711 be amended to allow greater flexibility in the types of sentences that can be imposed. The report recommends that the judiciary (with input from victim advocates, Batterers' Intervention Program providers, and the Department of Corrections) consult research-based risk indicators to assist the court in critical decision-making. This includes determining bail, conditions of release, sentences, probation, probation conditions, child custody, elder abuse issues, visitation, family law, guardianship and protection from abuse matters.

Regarding the review of the protection from abuse process, the joint report recommends improving access to the protection from abuse process in two ways. The first recommendation entails amending Title 19-A, Chapter 101 to substantially alter who is eligible to petition the court for protection. The report suggests allowing those who are merely dating (non-sexual partners), victims of stalking and sexual assault (not just family or household members), adult victims of certain caregivers (to include as defendants those individuals with caregiver responsibilities for the elderly), adult family members not living in the same household and minors or next friend on behalf of minors. The second recommendation is to allow plaintiffs access to a magistrate or judge for protection from abuse orders 24 hours a day, seven days a

week. Ellen Ridley, from Family Crisis Services, is currently chairing a statewide Task Force examining enhancements to the Protection Order Process, as recommended in the joint report.

In addition, it is worth mentioning that there are many innovative projects across the state. For example, the Family Violence Project (the domestic violence project serving Kennebec and Somerset counties) is working on the Protection Order Support Services Evaluation which has the following goals: to observe, streamline and improve ancillary court services now provided by domestic violence advocates; develop a protocol to monitor and help victims enforce provisions in court orders; build bridges of communication with courts and other community systems that work with victims of domestic violence; and provide a working needs assessment/evaluation as a baseline for both future grant endeavors and current court assistance work. Another project, sponsored by the Women's Law Section of the Maine State Bar Association, Pine Tree Legal, the Maine Bar Foundation, the University of Maine Law School, the Volunteer Lawyers Project, and the Violence Intervention Partnership, has created a panel of Pro Bono Attorneys who have represented over 50 victims of domestic violence in Protection Order hearings free of charge.

We hope these recommendations are helpful to you. We would be happy to provide you with additional detail if that would be beneficial, and would welcome being a resource to your committee.

Thank you for your commitment to ending domestic and sexual violence.

Sincerely,



Michael P. Cantara, Co-Chair
Domestic and Sexual Abuse Commission
Commissioner, Department of Public Safety



Elizabeth Ward Saxl, Co-chair
Domestic and Sexual Abuse Commission
Executive Director, ME Coalition Against Sexual Assault

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