DOMESTIC VIOLENCE REPORT™

LAW • PREVENTION • PROTECTION • ENFORCEMENT • TREATMENT • HEALTH

Vol. 11, No. 5 | ISSN 1086-1270 | Pages 65 – 80 | June/July 2006

Maine's Encouraging Law Protecting Animals in Domestic Violence Situations

by Joan Zorza, Esq.

The Maine legislature heard testimony from Susan Walsh, a battered woman who repeatedly wanted to leave her abuser to protect herself and her two children, but could not do so knowing that her abusive husband would retaliate against their pets and farm animals. Her husband had killed pets before, by running over her blind and deaf collie, by shooting two sheep, and strangling her prized turkeys. In doing this he was letting her and the children know just how brutal and lethal he could be, and that he could easily do the same thing to their other pets, and to her and the children.

Relief to Pets in Orders of Protection

The legislature got it, and passed a law to include relief to pets in orders of protection, which the governor, John Badlacci, signed into law on March 31, 2006. This is believed to be the first law in the country to protect animals from domestic violence abusers in orders of protection. It also helps to make that link between animal abuse and domestic violence, abuse that frequently happens in tandem. Ms. Walsh is now divorced from her abuser, and felt safe enough to tell her story. Unfortunately, such abuse against pets is far from unusual, and often acts to make it much harder for battered women to leave their abusive intimate partners. Abusers often destroy anything that their victims value, and pets are often highly beloved in fam-

See MAINE, page 78

Needs of Marginalized Battered Women

by Mindy B. Mechanic, Ph.D.

The three articles reviewed below focus on the needs of marginalized battered women. Specifically, older battered women, violence against American Indian women, and African American women. In the first article, Straka and Montminy (2006) review the existing literature addressing the needs of older battered women. The second paper by Luna-Firebaugh (2006) evaluates the impact of federal appropriations to address violence against Indian women (STOP VAIW) in 134 communities receiving federal grant funding. The third paper by Taylor (2005) examines cultural and gender and gendered violence issues that plague African-American women seeking safety after exiting abusive relationships.

Responding to the Needs of Older Women Experiencing Domestic Violence

by S.M. Straka and L. Montminy
12(3) Violence Against Women 251-267 (2006)

A paucity of attention has been devoted to understanding the needs of older battered women. Both research and practitioner responses to the needs of this vulnerable population have been sparse. One possible reason for scant attention to this population may be that research findings suggest an age-related decline in the prevalence of domestic violence, leading to erroneous assumptions that domestic violence is not a problem for older women. The authors challenge this assumption, suggesting that not only is domestic violence among older couples a problem, but perhaps more importantly, that in an aging society domestic violence among older women is likely to continue to become a more pervasive problem.

In terms of patterns, domestic violence among older couples may be the continuation of long-standing relationship violence or it may reflect a new expression of violence in a previously violence-free relationship. In their review, Straka and Montminy tackle several important themes pertaining to older women and domestic violence. First, they address the myriad ways in which older women differ from younger women, potentially creating unique obstacles in responding to intimate partner abuse: a) more traditional beliefs, attitudes and gender role ideology, including greater submissiveness to male authority and a stronger sense of privacy with respect to family matters; b) having grown up in an era in which divorce was taboo; c) financial barriers due to not having established independent career or employment histories and ageism in society restricting potential employment opportunities for older women; d) diminished health functioning compared to younger women that might further impede efforts to leave abusive partner-

See NEEDS, next page

ALSO IN THIS ISSUE

MAINE, from page 65

ilies, particularly by victims and children who are isolated as part of their abuse. For children it can be devastating to see the abuser torture, maim or kill an animal, particularly when it is one that they have nurtured and loved.

Laws already criminalize abuse of animals in Maine, as in every state, but this new statute enables acts to protect pets prospectively when victims seek court protection for themselves and their pets. Specifically the law permits the court to allow the victim to either: take the animals, have the animals sheltered or cared for by someone the victim designates, or make other provisions to protect the pets such as forbidding the abuser from having any contact with the pet. While some judges in other states have tried to make such orders, it is unclear if they are allowed to do so.

Pet Abuse as Grounds for Order of Protection

Occasionally judges have considered the pet abuse as part of the pattern of threats and violence used as grounds to issue an order of protection. For example, an old case in New York recognized that the husband had trained the family dog to not permit the wife and children to leave the home, if need be by attacking them. In that case, **Jane Y. v. Joseph Y**, 123 Misc.2d 771, 474 N.Y.S.3d 681 (N.Y. Fam. Ct. 1984), the judge not only granted the wife an order of protection, but also recognized that the dog was the instrumentality of the violence, and hence vacated both the husband and the dog from the marital home. The judge treated the dog much as it might a gun or other dangerous weapon, by ordering it to be removed from the home. (The judge did not confiscate the dog, as it might have a firearm.) But many courts, particularly those that lack equity jurisdiction, have no authority over animals, and could not order custody of a jointly owned pet to the victim. Maine's new law clearly permits such relief in order to protect pets.

Safe Havens for Pets When Victims Leave

As DVR has previously reported, many parts of the country have safe havens to care for pets and farm animals after victims fled their homes. But few such safe havens will take an animal for a long time, e.g., many will not keep the animal for longer than 30 days. One creative program in Columbus, Ohio places the animals of victims of domestic violence in a women's prison where the inmates care for them. This is also believed to be therapeutic for the inmates, increasing their empathy, and also, undoubtedly, providing a good opportunity for them to learn more about domestic violence and its ill effects, and the need to be protective of oneself, one's children and even one's pets.

Maine's law seems so obvious that one wonders why other states have not enacted similar legislation. Clearly all states should add relief to pets and farm animals within the possible relief remedy section of their order of protection laws. Some states are also considering whether to enact stiffer penalties for domestic violence when animal abuse is involved. One caveat, though, is not to make the abuse of an animal a more serious crime with a higher penalty than abuse of an intimate partner. It is time to end all abuse, and to send a clear message that no abuse will be tolerated, regardless of against whom it is directed. ■