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PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

MARK GREEN
Public Advocate

To: Domestic violence protection advocates
Members of the Safe@Work Coalition
From: Laurel W. Eisner, General Counsel
Date: December 9, 1999

I'm writing to bring you up to date on the Public Advocate's latest initiative on domestic violence and the workplace. We have drafted three bills which will be the subject of a City Council Committee hearing in January. We welcome your suggestions, your assistance and your support.

Bill No. 1 will ban both public and private employers from punishing persons because of their actual or perceived status as domestic violence victims. This will be an amended version of Intro. 400, introduced by Green last year. Nearly half the members of the City Council signed on to the original bill, and two newly elected members have expressed their support.

Bill No. 2 will require city employers to give victims of domestic violence leaves of absence, paid or unpaid, depending on the accrued leave time available, to deal with -- or escape -- domestic violence problems. This bill is modeled after one enacted by the State of Maine this year.

Bill No. 3 will require all city agencies to develop training, information, and managerial guidelines for assisting employees struggling with domestic abuse to obtain needed services and protections so they may retain their jobs, escape their abusers, and protect their children from the risk of foster care. This is modeled after New York State's model policies for counties and similar policies promulgated by the State of Maryland last year.

In addition, SAFE@WORK, the government-business-labor coalition that we formed to provide information, training, resources and model policies for addressing domestic violence and the workplace, is now live on the web. If you haven't seen it, check it out at **<SAFEATWORKCOALITION.ORG>**. Please send us any new information you think should be added to the site.

We will send you copies of the bills when they are ready to be introduced. PLEASE call me at 669-4659 (counsel@pubadvocate.nyc.gov) or Deputy Counsel Elisa Velazquez at 669-4719 (elisav@pubadvocate.nyc.gov) with any comments, suggestions or questions.

Domestic Violence Discrimination

BY KARA L. GROSS

Everyone but Mayor Giuliani thinks it is a good idea to prohibit employers from discriminating against victims of domestic violence. Recently the New York City Council General Welfare Committee and the Women's Issues Committee held a joint hearing on the introduction of legislation to protect victims of domestic violence from workplace discrimination. Intro 400-A would amend the New York City Human Rights Law to prohibit employers from terminating, demoting, suspending, refusing to hire, or discriminating against individuals in compensation or other privileges of employment because they are victims of domestic violence. At the hearing, employers, representatives of labor unions, and victims' advocates testified in favor of the legislation. The Giuliani Administration was the sole voice of opposition.

The most powerful testimony came from a victim of domestic violence, a self-proclaimed "survivor and thriver." She told the city council members that, if not for the financial security she had achieved through her job, she would not have been able to leave her abusive relationship and move herself and her children to a safe environment. More often than not, victims have to choose, between staying in an abusive relationship and living in a shelter. While this is a difficult enough choice for a woman who is alone, it is even more troubling when there are children involved who also need to be moved to a safe environment. The survivor testified that her ability to leave her batterer and move to a safe environment for her and her children was due, in large part, to her sympathetic employer who allowed her time off to attend court appearances and to meet with lawyers, counselors, and doctors. Unfortunately, not all victims have such generous employers. In fact, many employers treat victims of domestic violence more harshly than other employees and are less willing to make accommodations for them.

People may not realize the extent of this problem. Domestic violence has a devastating impact on the ability of victims — 90 percent of whom are women — to participate fully in the economy. The extent of this problem was demonstrated by Martha Davis, Legal Director of the NOW Legal Defense and Education Fund, who testified in support of the legislation. Every year, between three and four million women in the United States are battered by their husbands, partners, or boyfriends. Although domestic violence often happens at home, behind closed doors, the abuse does not stop the moment the woman walks out the front door to go to work — assuming, of course, that the batterer lets her go to her job on a regular basis. Batterers often prevent their spouses, girlfriends, or partners from arriving to work on time or going to work at all, make harassing phone calls to victims at work, stalk them at their place of employment, and wait for them after work. One study found that 74 percent of surveyed domestic violence victims were harassed by their batterers at work, and that domestic violence caused over 50 percent of the surveyed victims to be late for work at least five times per month. Other studies have shown that up to 56 percent of battered women reported being harassed at work in person by their batterers, and 70 percent of employed battered women reported that their batterers made harassing phone calls to them at work.

Employers frequently respond to such situations by terminating, demoting, and suspending the victims. In fact, data compiled from three separate studies revealed that between one-quarter and one-half of domestic violence victims surveyed had lost a job due, in part, to domestic violence. Moreover, victims of domestic violence are often reluctant to ask for time off to go to doctor's appointments or to court seeking orders of protection because they fear that revealing their situation will jeopardize their jobs. For these reasons, this new legislation is crucial. It is a first step toward ensuring that victims of domestic violence will not lose their jobs simply because they are victims. It will enable them to maintain their economic standing and to gain eventual economic independence so that they

can move out of abusive relationships and continue to provide for their children.

In a written statement submitted by the Mayor, he explained that his opposition to the legislation was twofold. First, he said that such legislation would be "unfair" because it would discriminate against victims of other crimes by not affording them the same protections as the victims of domestic violence. According to the Mayor, there is no difference between a victim of domestic violence and a victim of a random mugging or assault and that the "injuries and resultant impairments would in either case be identical." To support his point, the Mayor tried to capitalize on the horrible tragedy of Nicole Barrett, the young woman who was recently assaulted in Manhattan by a man wielding a brick, by saying that under the proposed legislation she would not be protected from discrimination by an employer. But the problem with this argument is that no one would ever discriminate against Nicole Barrett for the horrible tragedy she suffered. Drawing an analogy between the two situations is absurd.

Comparing domestic violence victims to people who have been randomly assaulted "is like comparing apples to oranges," said Dorchon Lekholdt of Sanctuary for Families, and the differences between the two situations are abundantly clear. Statistics show that domestic violence victims are a class of people who are routinely discriminated against in employment. Unlike victims of random one-time assaults, domestic violence is a cyclical crime — day-in, day-out, week after week, month after month, year after year. The Mayor's comments reveal a basic lack of understanding of domestic violence.

The Mayor's second reason for opposing the legislation — because "the bill jeopardizes victims' privacy" by forcing them to identify themselves as domestic violence victims — is even more bizarre. The bill does not "out" victims of domestic violence. It protects them from reprisal if they choose to come forward and tell their employers about their situations.

Because no representative of the Administration testified in person, there was no opportunity to confront the Administration about its position, but one person did voice her incredulity. At the close of the hearing, the survivor who had testified earlier unexpectedly stood up and said aloud to the city council, "Can I ask a question? You asked me questions — can I ask you one?" She took the stand and passionately explained:

The difference between me and victims of random acts of violence is that every day when I'm at work and my boss needs me to stay late, or it's 5 p.m. and my computer freezes or the printer jams or the phone rings, all I can think of is that if I don't have dinner on the table by 5:30 p.m. when my husband walks in the door then I'm going to be beaten that night. That is the difference between me and other one-time random crime victims.

Her explanation demonstrated how victims of domestic violence are trapped in a double bind. If she were to stay at work, she would risk being beaten that night and, consequently, she would risk being discriminated against the next day for not coming in to work or showing up with a black eye. If she were to go home early, she would risk being discriminated against for not working overtime or not meeting a deadline. No one should have to choose between their personal safety and their work commitments. It is for these reasons that victims of domestic violence need protection from workplace discrimination. In closing, the survivor exclaimed, "How can the Mayor say that there is no difference between my situation and a one-time victim's? That is the question I want to ask the Mayor."

In wanting to hear Mayor Giuliani's answer to this question, this survivor is certainly not alone.

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