

State of Vermont

**Domestic  
Violence  
Fatality  
Review  
Commission**

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**2018 Report**

Vermont Attorney General's Office  
<http://www.ago.vermont.gov>

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**This project was supported by grant number: 2014-WF-AX-0043, awarded by the Office on Violence Against Women, Office of Justice Programs, U.S. Department of Justice.**

**Points of view in this document are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice.**

## **DEDICATION**

The Vermont Domestic Violence Fatality Review Commission dedicates this year's report to the families that share their stories with us. We admire your courage and hope to honor the memory of your loved one as we work to improve our system responses to domestic violence.

## **INTRODUCTION**

On May 2, 2002, then-Governor Howard Dean signed into law H.728, which created Vermont's Domestic Violence Fatality Review Commission ("Commission"). The purpose of the Commission is to collect data and conduct in-depth reviews of domestic violence-related fatalities in Vermont with the goal of making policy recommendations to prevent future tragedies. There are now over 40 states that have active multi-disciplinary domestic violence fatality review teams across the country. The purpose of these review groups is to examine data and information so we can better understand why and how the fatalities occurred and what can be done to prevent future deaths.

Pursuant to 15 V.S.A. § 1140, the Commission operates under the auspices of the Office of Attorney General in consultation with the Vermont Council on Domestic Violence ("Council").

Under 15 V.S.A. § 1140, the purposes of the Commission are to:

- examine the trends and patterns of domestic violence-related fatalities in Vermont;
- identify barriers to safety, the strengths and weaknesses in communities related to domestic violence, and systemic responses to domestic violence;
- educate the public, service providers and policymakers about domestic violence fatalities and strategies for intervention and prevention; and
- recommend policies, practices and services that will encourage collaboration and reduce fatalities due to domestic violence.

This is the sixteenth Commission report. This report includes data regarding fatalities for 2017 and updates the Commission's statistical information from 1994-2017. In 2017-18, the Commission completed two in-depth case reviews and recommendations from those reviews are discussed in this report. Finally, the report provides relevant updates on the Commission's previous recommendations.

The Commission asks all Vermonters to review this report and provide us with comments and suggestions as we continue to study the trends and patterns of domestic violence-related fatalities.

## EXECUTIVE SUMMARY OF COMMISSION DATA

The Commission data indicates:

- Between 1994 and 2017, 50% of all Vermont homicides were domestic violence-related.
  - 55% of Vermont's adult domestic violence-related homicides were committed with firearms.
  - 77% of the suicides associated with the homicides (i.e. murder/suicides) were committed with firearms.
  - 80% of Vermont's domestic violence-related fatalities were committed by males.
  - 53% of the decedents in domestic violence-related fatalities were female.
- Of the seventeen (17) homicides in Vermont in 2017, eleven (11) (65%) were domestic violence-related.
  - Of the eleven domestic violence-related homicides, three involved the use of a firearm.
  - Two responsible parties died by suicide, one by firearm and one by intentional overdose.
  - Of the eleven domestic violence-related homicides, six were intimate partners. Of those, three were current partners and three were recently separated. One had a relief from abuse order in effect at the time.
  - Of the eleven domestic violence-related homicides, ten occurred in the home.

## SUMMARY OF COMMISSION'S ACTIVITIES IN 2017

In 2017, the Commission issued its Annual Report. The report contained new statistical information and updated charts. It did not include recommendations. This year's report includes recommendations from both 2016 and 2017. As required by 15 V.S.A. § 1140, the Commission distributed its report to the General Assembly, the Governor, the Chief Justice of the Vermont Supreme Court, and the Vermont Council on Domestic Violence.

A List of our commissioners is available on the Vermont Attorney General's website and can be found here: <http://ago.vermont.gov/wp-content/uploads/2018/05/2017-DVFRC-MEMBERS.pdf>. We welcomed new members: Tracy Shriver who replaced Deb Celis as the State's Attorneys representative, Captain Dan Trudeau and Victim Services Director Kate Brayton from the Vermont State Police,

and Melissa Deas who stepped in to fill what had been an empty spot for the Vermont Coalition of Domestic Violence Accountability Programs when funding was eliminated for the Coordinator position. We also gained a physician representative appointed by the governor, Dr. Mariah McNamara who replaced Dr. Gail Yanowich.

Over the course of 2018, long-term member Captain JP Sinclair from the Vermont State Police retired, and Sarah Robinson from the Vermont Network Against Domestic Violence and Sexual Assault stepped down and Auburn Watersong, Policy Director from the Network stepped in as their new representative. JP and Sarah have been amazing, insightful and dedicated members of our Commission and we wish to thank them for their many years of service.

For the first time, the Commission joined with the Vermont Child Fatality Review team to conduct a joint review. We wish to thank the specially appointed members for their willingness to participate in this process on top of their regular duties. Those specially appointed members are: Elizabeth Bundock, MD from the Medical Examiner's Office, Nancy Miller from the Department For Children and Families ("DCF"), Trevor Whipple, Chief, South Burlington Police Department, and Debby Haskins from the Center of Health and Learning.

During 2017 the Commission met bi-monthly, and the Chair of the Commission and the Coordinator of the Vermont Council of Domestic Violence met monthly to work on implementing past recommendations.

Pursuant to 15 V.S.A. § 1140, the purpose of the Commission includes identifying strengths and weaknesses in systemic responses to domestic violence and making recommendations that will encourage collaboration, intervention, and prevention. Below please find relevant data regarding the completed case reviews and the Commission's findings regarding strengths in the community and recommendations to improve the response to domestic violence.

### **SUMMARY OF THE 2017 CASE REVIEW PROCESS**

While the Commission reviews and discusses all domestic violence-related homicides every year, we also select one or two cases to review in depth from previous years. The case review process includes creating a timeline for the case, identifying lethality factors, reviewing all available documents, inviting witnesses to testify, taking testimony from witnesses before the Commission, and discussing at length what we learned from our review. The proceedings and records of the Commission are confidential to protect the privacy of surviving family members.

It is always our intent to learn as much as possible from direct sources in every case. We attempt to speak directly with police officers and others that were part of the systemic response, as well as family members of the victim and the responsible party. Thank you to all the family members, mental health professionals, advocates and attorneys who shared their experience and perspective with us this year. We hope that

we can use this report and our recommendations as a starting point to improve the systemic response and make further strides in our efforts to prevent domestic violence fatalities.

### **2017 CASE REVIEW INFORMATION**

In 2016/7 the Commission reviewed two cases. Both cases involved long term relationships in which the parties had children together. Both involved females who were living separately from the responsible party and had custody of their children. In both cases, the parties had recently separated and the responsible party was male. Both females had close, supportive families who did everything they could to help once they learned about the responsible parties' abusive behavior. In both cases, the responsible party took his own life after committing the murder.

In one case, the partners had been married for many years. The female sought police assistance, but there was no arrest. She obtained a relief from abuse order, but the judge granted the order only as to her, not the child. The decedent is a biological child of both. In the other case, the parties had lived together and had a young child in common. The decedent is the female ex-partner of the responsible party. The female did not make a police report, but was considering applying for a relief from abuse order when she was killed. She was concerned that her ex-partner was suicidal.

The following risk factors were identified by the Commission in these cases:

1. serious physical violence currently and in the past;
2. prior threats to kill in one case and prior threats with a firearm in the other;
3. recent separation; and
4. access to weapons.

### **STRENGTHS IN THE COMMUNITY**

As noted above, part of the Commission's statutory role is to identify strengths in addition to barriers in responses to domestic violence cases. During the review, the Commission identified the following positive strengths:

- Both females had very strong social support from her family.
- Both females were able to find resources in the community, in one case through medical providers and in the other through the court process.
- Local community agencies and the family services division of DCF provided exceptional support to one of the families when they became the primary caretaker for their deceased daughter's infant child.

## **PART ONE: CASE REVIEW FINDINGS AND RECOMMENDATIONS**

The Commission makes the following findings and recommendations related to our review. We identify relevant professions and agencies that may be able to incorporate our recommendations in their practices and protocols. We encourage these groups to give careful consideration to these recommendations and we welcome the opportunity to discuss our recommendations further.

In no way does the Commission intend to imply that any agency or policy is responsible directly or indirectly for any death. The goal of the Commission in making these recommendations is to increase the safety of all Vermonters. The findings and recommendations are not prioritized and are of equal importance.

### **A. Child Custody and Visitation in Domestic Violence Cases**

#### **1. Family Court and Probate Court**

One of the central issues in both case reviews is the need to properly address the needs of children in situations involving domestic violence. In one case, the child was quite young when her mother was murdered. Her family obtained guardianship through probate court. Luckily, the family received strong support from a community social worker and a DCF Family Services investigator who worked together to ensure that the child and the child's caregivers, who had just lost their daughter and were dealing with their own trauma, got the support they needed. The Commission wishes to commend them both for truly outstanding dedication and support.

However, the Commission is concerned that greater clarity is needed to ensure that children of a parent/guardian who has been murdered by the other parent/guardian may be seen as children in need of care and supervision (CHINS) by the court system. Currently there are two paths forward in these cases: guardianship through probate court or custody through family court. As mandated reporters, law enforcement have twenty-four hours to notify the Family Services Division of DCF. However, the Commission believes notification should take place as soon as possible in cases of a domestic violence-related homicide or near homicide. Even if there are appropriate family members to care for the child, DCF will conduct the necessary checks to ensure that the child is in a safe environment and safety plan with the caregivers. In one case review, the whereabouts of the responsible party was unknown. While police were diligently investigating and most likely would have arrested him immediately if he showed up demanding his child, this possibility must always be addressed once the children are no longer in the presence of law enforcement.

In some cases, guardianship proceedings through probate court and custody through family court may both be options. If the caregiver can provide a stable and safe home for the child, probate court may be an appropriate avenue. The downside to this path is that currently probate court lacks the ability to do any independent investigation. Probate court lacks access to criminal histories, police reports, DCF reports, and filings

in other courts that might prove useful if the guardianship is ever contested, for example, if family members of the responsible party choose to get involved. Probate court also does not have the capacity to address emergency situations and families may experience additional stress from the period of time spent waiting for the court's decision. Guardianship through probate court also lacks permanency for the child. If the guardian decides that the arrangement is no longer working, the guardian can ask probate court to allow the guardian to withdraw, and the child may suffer from the lack of a stable home.

Family court may also be the best option. The caregiver may experience stress from having less control over the child's placement, however, trained DCF workers can assure families that placement with a caregiver-relative who the child knows well and who can offer a stable and safe home is the preferable course of action. Moreover, this path allows the caregiver to pursue adoption which provides permanency for the child. Should the responsible party's family assert an interest in visitation/custody, a skilled DCF Family Services worker can act as a buffer in the arrangements. DCF is also able to help safety plan, help with financial concerns, counselling referrals and offers expertise in dealing with trauma. Family court also has access to court records and other information that probate court currently does not.

There seems to be confusion within the systems between the family court process and the probate court. The child welfare system response directs cases through a CHINS process because there is a foster care reimbursement and the opportunity for an adoption subsidy to meet any special needs. These cases are high risk from a permanency point of view and have a high likelihood of adoption. There is also an ongoing need for decisionmakers from both systems to collaborate on how both processes can work together to improve outcomes for children and their caregivers.

## **2. Supervised Visitation**

The Commission looked closely at the process for supervised visitation when a supervised visitation center is not involved. The victim in the reviewed case sought a relief from abuse order on behalf of her and her children. The court granted a temporary order that permitted defendant to call plaintiff's home to speak with the children and indicated that parent-child contact/custody issues would be addressed at the final hearing. The final hearing was continued for approximately a month, and while this was pending, a family member was asked to supervise visitation. The court set up a custody sharing arrangement with one child and the older child had visitation at the child's discretion. That older child elected not to have any visitation. The younger child was not given any discretion in whether to have visitation with defendant. The court never asked the family member who supervised visitation about the status. Despite the allegations of abuse toward the younger child, the final order was granted with respect to the mother only. The final order permitted contact with the plaintiff by email to arrange parent/child contact and indicated the exchange should take place "at school or other mutually agreeable place." At that point, visitation with the children became unsupervised.



Although the court and the parties agreed on a family member to supervise visitation before the final hearing, the family member received no information about the role or the court's expectations. While that family member was amenable to the arrangement, the lack of guidance was difficult. The lack of an opportunity to report to the court about the status of the visits made it difficult to express any concerns.

This was not an isolated occurrence, family members are often tapped to be supervisors and they are given no formal guidance or support in that role. In cases involving domestic violence, the commission does not believe it is best practice to appoint a family member to supervise visitation, but understands that often there is no other choice available. While Vermont has excellent supervised visitation centers in some communities, they are not an option in some cases. Courts often have no other option than to appoint a family member or friend and face a difficult task in creating orders that provide appropriate supervision and safety in those circumstances.

The Commission recommends that the judiciary work with child advocacy specialists and domestic violence experts to develop basic guidelines for supervised visitation in domestic violence cases. Even if a supervised visitation center is not involved, the Coalition for Supervised Visitation Centers in Vermont provides valuable resources and guidelines. There are also resources available from the National Council of Family and Juvenile Court Judges, for example <http://www.ncjfcj.org/resource-library/publications/judicial-guide-child-safety-custody-cases>

We recommend that the judiciary, in partnership with these resources, develop guidelines to create a case-specific contract in each proceeding that all parties and the supervisor must agree to before supervision begins. The contract should outline the court's expectations, be very specific, and include periodic compliance review. Before any decision is made to alter or discontinue supervision, the court should solicit feedback from the supervisor and the child if the child is of an appropriate age to do so.

### **3. School Notification Process in Abuse Prevention Orders**

The Commission discussed the process when the plaintiff chooses to notify his/her child's school if the child is included in the abuse prevention order or if child custody arrangements are taking place at the school as part of the order. When the victim chooses to notify the school, the Commission wondered if there was a safe way for the judiciary to collect this information and assist the plaintiff with notification by providing a copy to the school. We identified many reasons why this might be difficult. In some cases the plaintiff may wish to keep the school that the child attends confidential from the defendant for safety reasons, and the location of the school should not be in the order. We also realize that asking the court to provide this service is adding to the workload of staff who are already stretched thin. We also identified privacy concerns that might occur if the information, for instance, was emailed to the school. A notification process, if not handled well, could take agency away from the plaintiff and

cause greater harm. However, we do think that a notification process that supports the plaintiff and the child, when it is requested as part of the order, would be helpful.

Past practice has been to require the plaintiff to think about and take full responsibility for notifying the school about the order and providing a copy. Any changes to the order require the plaintiff to repeat the process. Often this does not happen. In some cases, the plaintiff is unsure who to contact, overwhelmed with other economic or criminal justice issues as a result of the abuse, or does not have a copy of the required documentation. The Commission recommends that the judiciary work with advocates to create a protocol to support the plaintiff when she/he wishes to provide notification to a school. Advocates should advise plaintiffs of the protocol and be familiar with the resources that school guidance counsellors can provide to support the student. The school guidance counsellor can be a great resource for a child who is experiencing trauma associated with domestic violence in the home and needs support. Communities can work together to increase the opportunity to provide confidential support for a child who may not have any other outlet to discuss the impact that the order is having on him or her.

### **Law Enforcement Recommendations**

- Law enforcement provide notification to DCF Family Services division as soon as possible in homicides or near homicides involving intimate partner domestic violence when the victim and/or perpetrator have custody of their children and there is no other uninvolved parent/guardian.
- Law enforcement should develop a protocol to notify family court if the supervisor reports a violation of the court's order regarding supervised visitation in domestic violence cases even in cases where criminal charges are not filed.
- Law enforcement agencies work with family court to support plaintiffs who request assistance with notifying schools about relief from abuse orders, including creating a process to notify the court promptly of any violation of child visitation/custody orders in domestic violence cases.

### **DCF Recommendation**

Work with probate and family courts to develop informational brochures for all caregivers to explain guardianship and custody and what services and support may be available to families.

### **Judiciary Recommendations**

- The judiciary develop a method to share information with probate court about other pending cases and criminal and family court history.

- Family and Probate courts distribute informational brochures prepared by DCF-Family Services to all caregivers when a guardianship or custody order is filed and provide a link to this information online on their website.
- The judiciary work with child advocacy specialists to create guidelines for supervised visitation in domestic violence cases when a supervised visitation center is not involved.
- The judiciary develop a template form that can be used to create a specific and detailed contract of expectations that will be signed by the parties and the appointed supervisor in domestic violence cases before visitation begins.
- The judiciary receive education on when the use of family members to provide supervised visitation may not be appropriate in domestic violence cases.
- The judiciary should develop a system for compliance review of supervised visitation in domestic violence cases. The system should solicit feedback from supervisors and age-appropriate children when changing or eliminating supervised visitation even in cases in which the parties are stipulating to the new terms.
- The judiciary work with domestic violence advocates, schools, and law enforcement to develop a protocol and process to support plaintiffs who wish to have a school notified about a relief from abuse order.

## **B. Improving Vermont’s Response to the Intersection of Domestic Violence and Mental Health**

While there is some overlap in mental health and domestic abuse, the overlap is not complete. The Commission recommends that Vermont craft a consistent statewide message to improve the connections between service providers and reduce stigma. The intersection between domestic violence and mental health must be examined at the leadership level. As a state, we have yet to intently focus on this intersection. The Commission recommends that the Agency of Human Services (AHS) convene a statewide work group of leaders including representatives from Department of Mental Health (DMH), Department of Health, Department for Children and Families, law enforcement, Vermont Council on Domestic Violence and the Vermont Network to begin this important work. We hope this leadership group will consider an assessment of existing curriculum in undergraduate and graduate programs for social workers, health care professionals and mental health professionals regarding how the dynamics of domestic violence are incorporated into their educational programs.

Over the past year, the Commission looked closely at what community resources are currently available to families who have a loved one who is perpetrating domestic violence. Families are often in the best position to recognize when a loved one who is

perpetrating domestic violence is considering harm. In one case, the Commission noted that the responsible party's parents were aware that he had threatened the victim with a firearm. They had firearms in their home and were aware that the responsible party was in possession of firearms. The victim was concerned that the responsible party was suicidal. In the other case, the responsible party had taken several steps to get his affairs in order and had contacted family members for assistance with this.

The Commission was unable to verify if either family recognized warning signs and tried to get help. However, even when families try to get help, the process can be difficult. Resources vary from county to county. Families may hesitate to contact professionals because they fear criminal prosecution of their loved one. They may not realize that a perpetrator of domestic violence who is considering harming himself may also pose a significant risk of harm to his family. In our 2016 report, we discussed the prevalence of suicide in Vermont and the increased risk of suicide for persons who have experienced domestic violence.

The mental health subcommittee of the Commission spent time learning about what resources are currently available in Vermont. Vermont has a mental health crisis line. The caller defines the crisis. First Call, Chittenden County's mobile crisis unit, uses a continuum of care model that starts with the lowest level of intervention, such as community support and referrals.

About half of the calls they receive are made on behalf of another person. First Call can offer community support and safety planning to a third party caller. If a person in need is reluctant or unwilling to engage in mental health services, mental health clinicians are able to initiate a "cold call" and reach out to the person. If warranted, the clinician may come to the home and try to do an assessment. The clinician may only enter the home if invited in by a third party caller who has authority to grant access. Screening would include questions related to concerns about violence, suicide and firearm access. If the person being screened doesn't show up for an appointment or stops answering his/her phone, the clinician can call the police to do a welfare check. There is a program available to family members of a child up to age 24 even if the child is not interested in treatment. <http://centerpointservices.org/our-services/family-support>

Clinicians for First Call mobile crisis unit carry gun locks. Locks are available from community mental health clinics and at other locations, like town clerks' offices and some libraries. Some police departments have the capacity to store firearms for a limited period of time, but federally licensed firearm dealers are in a better position to store firearms long term. While gun or trigger locks may provide some level of deterrence, removal of the firearm entirely is a better alternative. The Commission recommends that all mental health and health care providers are familiar with the process for storing firearms in their community and the legal methods for removing firearms in dangerous situations such as relief from abuse and extreme risk protection orders.

We reviewed a standard crisis assessment form. The subcommittee noted that there are no questions that ask directly about domestic violence concerns. In the risk assessment, there is a question about homicidal ideation. The form asks for legal history and relevant family history and if law enforcement was involved in the situation. The last section on “issues that apply” asks about homicide, family conflict, concerns about sexual behavior, incarceration and legal issues/history. The Commission believes that the standard intake forms used should be revised to provide universal domestic violence screening and to align with other screening efforts in the state, such as Healthy Moms, Happy Babies and the Blueprint Women’s Health Initiative.

There is a free online training program on Counselling on Access to Legal Means (CALM) and other clinical interventions that may be useful for clinicians to complete such as Collaborative Assessment and Management of Suicidality (CAMS). We recommend that all health care providers be required to complete evidence-based online training such as these. The statewide work group is encouraged to explore a system of accountability to promote these best practices.

The Commission also looked at the challenges posed when the victim has mental health issues that may make it difficult for him or her to get help. In some cases, the victim may have repeatedly contacted police with complaints that stem from his/her illness and as a consequence police are uncertain how to respond. The victim may fear that she is less likely to be believed because of her mental illness and the responsible party may have reinforced this fear. In some cases, the responsible party may have convinced authorities that her complaints are unwarranted and a symptom of mental illness. Family members may be confused as well, as mental illness may prevent them from recognizing that a loved one is experiencing domestic violence. The Commission recommends that all mental health agencies designate a person to serve on their local county Domestic and Sexual Violence task force and ensure their providers are familiar with local domestic violence advocacy programming and local Domestic Violence Accountability Programs.

Like mental illness, domestic violence has a stigma attached to it. We are often reluctant to speak openly about it. By encouraging our community to speak more openly about both, we may encourage those who are experiencing domestic violence to speak up. Mental health and health care professionals are critical resources who can open this conversation by asking about domestic violence in routine screening.

### **Agency of Human Services**

- Convene a statewide leadership group from the Agency of Human Services, to include the AHS Domestic Violence Steering Committee, Department of Mental Health (DMH), Department of Children and Families, Department of Health, Vermont Council on Domestic Violence, the Vermont Network, law enforcement, emergency medical technicians and dispatcher services to begin developing a consistent approach to the intersection of domestic violence and mental health.

## **Department of Mental Health**

- With help of the AHS leadership group, develop a system of accountability to promote statewide use of online clinical training opportunities in best practices for clinical interventions, such as Counselling on Legal Means (CALM) and Collaborative Assessment and Management of Suicidality (CAMS) within their designated agencies.
- Ensure all mental health service providers in designated agencies incorporate screening methods that address whether a person who has suicidal ideation also poses a homicidal risk to partners and children in domestic violence cases, including those who conduct screening for courts.
- Revise standard intake forms for designated agencies to provide universal domestic violence screening, including specific questions about thoughts to harm intimate partners or children, and to align with other screening efforts in the state, such as Healthy Moms, Happy Babies and the Blueprint Women's Health Initiative.
- Increase visibility of services available to family members and third parties who are concerned that a loved one who has perpetrated domestic violence may pose a risk of harm to him or herself or others.
- Develop a plan of how we can best target our resources toward reducing the stigma of both domestic violence and mental illness in our communities.

## **Mental Health/Health Care Provider Recommendations**

- Ensure all mental health and health care providers are familiar with the process for storing firearms in their community and the legal methods for removing firearms in dangerous situations such as relief from abuse and extreme risk protection orders.
- All mental health clinicians should be trained to address issues of domestic violence and coordinate safety planning with domestic violence experts, including understanding lethality factors and when to encourage removal of firearms.
- All mental health agencies should designate a person to serve on their local countywide Domestic and Sexual Violence task force.
- All mental health and health care providers should be familiar with Domestic Violence Accountability Programs in their community and consider referring clients who are perpetrators of domestic violence to them.

## **Emergency Relief from Abuse Order Process**

In one of our case reviews, the Commission looked closely at the process for obtaining a relief from abuse order outside of normal court hours. Vermont has had a process in place for victims to seek an emergency protection order against a family or household member at any time of day. During regular court hours, the order is available from family court. If it is outside of normal business hours, the plaintiff contacts an after-hours court worker who will have the plaintiff prepare an affidavit and then the court worker will contact a judge. The judge can grant an ex parte emergency order if she finds that there is an immediate danger of further abuse.

Some after-hours court workers are full-time court employees, but the positions can be difficult to fill, and the court contracts with non-employees as well to provide this service. After-hours coverage is provided by relatively few people over large geographical distances which can create long wait times for plaintiffs who are meeting them in person. Training of new after-hours workers is generally done by job shadowing and there are no formal training requirements. After-hours workers who are contract workers have little opportunity to interact with other after-hours workers or full-time court staff in their region. There are few 24-hour police agencies in many areas of the state, and it can be difficult to find a safe, secure location to meet the plaintiff.

In order to address some of these issues, the judiciary asked the legislature to amend the relief from abuse order statute to allow electronic filing. On April 25, 2018, Governor Scott signed H.836 which amended 15 V.S.A. § 1106 to provide for electronic filing of emergency orders: 1) where a secure setting is not available, 2) when the worker determines electronic filing is “appropriate”, a broad catch-all category that can include bad weather conditions, lack of child care and other obstacles to meeting in person. 15 V.S.A. §1106.

Electronic filing is in the planning stages as a pilot program. The judiciary also arranged with the state police to provide safe meeting locations in state police barracks in those areas of the state where there is no 24-hour police agency. The state police took on this additional service. The Commission wishes to thank the judiciary and the state police for their efforts to ensure that after-hours emergency orders are available statewide.

The Commission has identified other obstacles that also need to be addressed. After-hours workers need structured and ongoing domestic violence training. The Commission is pleased that the court administrator’s office now includes them in the in-service training days for judiciary staff. However, all after-hours workers need formalized, intensive training in the dynamics of domestic violence. Hiring criteria should reflect a preference for persons who have prior experience working with families who have experienced domestic violence. All family court staff, including after-hours workers, should have domestic violence training that incorporates trauma-informed practices.

The Commission believes that the relief from abuse order process itself needs revision. After-hours workers are given a prepared script that they are expected to follow for consistency. While not intentional, some of the preliminary scripted questions can feel discouraging to plaintiffs. An after-hours worker who strictly follows the script may find that it is at odds with the trauma-informed practice of building rapport with the person first. The plaintiff may not understand why the worker is asking the preliminary scripted questions and may interpret as it discouraging the need for an after-hours order. For example, by asking if the person is in a safe place now and can you stay there, the plaintiff may feel that the worker is questioning whether he/she really needs an emergency order if the plaintiff has a safe place to be until regular court hours. The plaintiff may feel that by asking these questions first, the worker is not really interested in hearing what happened. Moreover, these questions can be difficult for a plaintiff to accurately determine. Research suggest that victims of domestic violence tend to underestimate, rather than overestimate, their risk. The subcommittee of the Commission also developed detailed suggestions for improving the after-hours relief from abuse order process which are set forth in our recommendations.

Currently there is no expectation that an after hours-workers keep a log of all calls received. While the after hours worker does track of the number of calls and the number of times that the worker is called out to meet with a plaintiff, this is only for compensation purposes. The Commission believes that it is important for accountability to track information about all calls received. The worker should keep a detailed record of all calls, including those that do not result in an order. We recommend that the Court Administrator's office create a logging system for after-hours workers to track all calls, including the name of the caller, location, police agency if involved, potential defendant and the disposition of the call. Workers should be required to use the log.

### **Court Administrator's Office Recommendations**

- Create a formalized training process for after-hours workers that ensures they are trained in trauma-informed practices and understand the dynamics of domestic violence. Create opportunities for after-hours workers who are not part of full-time staff to connect to other court personnel and advocates in their region, and also with each other.
- Expand the electronic filing option to all counties.
- Eliminate these preliminary questions from the after-hours script: Are you in a safe place now and will you be able to remain in a safe place until (the next court day)? Do you feel safe waiting until tomorrow (next court day) to go to court to file your complaint and are you willing to wait?
- Revise the questions to obtain the necessary information in a neutral and trauma informed way. For example, what relief are you looking for? Are you interested in an emergency order?



- Consider incorporating the following suggestions into the after-hours relief-from-abuse-order process:
  1. Begin with an introduction of yourself and some acknowledgement of the person to build rapport. Explain why you need to ask some preliminary questions first to determine if the relationship would qualify for an order. If it does not, explain the other non-emergency orders that the person might be eligible for and how to get more information about them.
  2. Ask if the person has had an opportunity to speak with an advocate. Know the name of your local program(s). Have the phone number of the 24-hour hotline available. Let the plaintiff know that he/she can expedite the process by filling out and affidavit with an advocate before the worker arrives and that the forms are available online.
  3. If you are meeting in person, incorporate trauma-informed practices into your work. This would include, for example, offering the plaintiff a choice of seating if possible, introducing yourself and your role, and acknowledging that you are sorry that they have had this experience. Use open-ended questions and give the person time to pause before answering if needed. Don't expect a chronological narrative.
  4. Ask what type of relief the person is requesting. Because of the heightened lethality risk when firearms are involved, it is important to ask if the defendant has firearms and if the plaintiff has any concerns about defendant's access to firearms.
  5. If the emergency order is not granted, let the plaintiff know about the option to file for a non-emergency order during regular court hours and other types of orders that might be available, such as stalking or sexual assault protection orders.
  6. If the order is granted, confirm the best method for law enforcement to contact the plaintiff when the order is served and let the plaintiff know if there is any reason that might delay law enforcement from attempting to serve the order right away. Plaintiffs should be encouraged to speak with an advocate who can assist him/her in creating a safety plan and the importance of having a safety plan even if the order is granted and served.
- Create a log for after-hours workers to use to track information about each call, including the name of the caller, location, police agency if involved, potential defendant and the disposition of the call.

## PART TWO: DOMESTIC VIOLENCE 2017 HOMICIDE DATA

- In 2017, there were 17 homicides total and 11 of those were domestic violence related (65%). Domestic violence decedents ranged in age from 27 to 70 years old. Of these, nine of the victims were white, one asian, and one black. Of these responsible parties, eleven were white, and one was asian.
- Overall, nearly three-fourths of domestic violence-related decedents were female (73%). Gender breakdown of the decedents in the domestic violence-related homicides was as follows:

<b>Gender of Decedent</b>	<b>#</b>
Male	3
Female	8

Males accounted for 67% of the responsible parties. In one homicide, there were two responsible parties. Gender breakdown of the responsible parties in the domestic violence-related homicides was as follows:

<b>Gender of Responsible Parties</b>	<b>#</b>
Male	8
Female	4

The majority of the domestic violence homicides involved either current or former intimate partners. The relationship between the victim and the responsible party was:

<b>Relationship between Victim and RP</b>	<b>#</b>
Intimate Partners:	6
(1) Current	3
(2) Recently Separated	3
Family member	3
Household Member	1
Other DV Related (Law Enforcement Involved Shooting)	1

Half of the counties in Vermont had at least one domestic violence homicide. Counties where the homicides occurred:

<b>County</b>	<b>#</b>
Chittenden	1
Franklin	2
Essex	2
Rutland	2
Washington	2
Windham	1
Windsor	1

In 27% of the homicides and in one of the suicides, firearms were involved.

<b>Cause of Death</b>	<b>#</b>
Sharp Object Impact/Stabbing	4

Firearm	2
Strangulation	2
Neglect of Care	1
Blunt Force	1
Firearm and Stabbing	1

Ten of the eleven domestic violence homicides occurred in the home (91%) and one occurred in an unknown place (victim found near a roadway).

Two of the twelve responsible parties died by suicide, one involved a firearm and the other an intentional overdose of prescribed medication.

One of the domestic violence victims had a current relief from abuse order in effect against the responsible party at the time of her death.

There were young children present in the home at the time of one domestic violence homicide and a young child who lived in the home but was not immediately present at the time of death in another.

In four of the eleven homicides, substance and/or alcohol use was involved.

### **Police Response**

In 2017, 62 law enforcement agencies responded to 1,213 incidents involving domestic violence. Fifty-six (56) agencies were involved in 1,424 incidents involving service of an abuse prevention order, for a total of 2,637 incidents. This number decreased from the 3,491 calls received in 2016.

### **Vermont Network Against Domestic and Sexual Violence**

Vermont Network member programs responded to 17,616 hotline calls and served 8,878 individuals, including 7004 victims of domestic or sexual violence. These numbers also decreased from the 19,816 hotline calls and 9,376 individuals served in 2016.

### **DCF-Family Services Division**

In 2017 DCF Family Services Division received 2,904 domestic violence-related intake calls. It accepted 898 calls for child safety intervention and 183 of those were substantiated for child maltreatment.

### **Vermont Department of Corrections**

As of December 31, 2017, there were 9,167 individuals in the custody of the VT Department of Corrections (DOC). Of these, 1,687 were DV offenders.

389 individuals were incarcerated with at least one DV offense. Of these, 13 were female, 371 were male, and five did not identify as male/female. 144 were detained awaiting disposition, and 245 were sentenced. Of the females, 12 were held on felony charges, one was held on a misdemeanor. Of the males, 333 were held on felony charges and 38 were held on misdemeanors. Of those who did not identify as male/female, all five were held on felony charges.

In the probation and parole offices, 1,298 individuals were convicted of at least one DV offense. Of these, 124 were on Missing status, with a warrant issued for their arrest.

Of the total filed DV population of 1,298, 158 were female, 1,139 were male, and in one no gender was designated. Of the females, 46 had felony convictions and 112 were misdemeanants; of the 46 felons, 39 had DV felonies. Of the males, 640 were felons, and 499 were misdemeanants; of the 640 felons, 478 had DV felonies. The one person who did not have a gender designated was a misdemeanant.

Of the 1,687 DV offenders in DOC custody, 525 had been sentenced for the first time during 2017. At the other end of the spectrum, 52 had begun their DOC involvement during the 1980s.

1,687	Total DV Offenders
389	Incarcerated
1,298	Community Supervision

These numbers decreased from 1,723 total DV offenses, 477 of them incarcerated and 1,276 under community supervision as of December 30, 2016.

### **Criminal Charges for Vermont District Court**

#### I. Misdemeanor domestic assault charge dispositions by county

Of the total 11,159 misdemeanors filed in the Criminal Division of the Vermont Superior Court in FY17, 702 were domestic assault charges according to the statistics available from the Court Administrator’s Office.<sup>1</sup> Misdemeanor domestic assault charges declined 3% from the previous year and 12% over the last five years.<sup>2</sup>

There were 797 misdemeanor domestic assault charges under 13 V.S.A. § 1042 disposed in 2017. Of the 797 cases, resolutions were fairly evenly split between 369 (46%) resolved by pleas and 366 (46%) dismissed by the prosecutor. Very few cases (24 or .3%) went to either a jury or court trial. Windham and Bennington counties had half, or 12 of the 24 cases that went to trial.

<sup>1</sup> Appendix I to the Vermont Judiciary Annual Statistical Report for FY17 (“Appendix”)

<sup>2</sup> Vermont Judiciary Annual Statistical Report for FY17, p. 28.

<b>Misdemeanor Domestic Assault</b>						
<b>County</b>	<b>Total</b>	<b>Plea</b>	<b>Trial</b>	<b>Dismissed By Prosecutor</b>	<b>Dismissed By Court</b>	<b>No Probable Cause</b>
Addison	22	13	1	8	0	0
Bennington	68	33	6	27	2	0
Caledonia	42	21	1	17	1	0
Chittenden	160	55	1	100	1	0
Essex	5	4	0	1	0	0
Franklin	96	53	0	41	2	0
Grand Isle	4	1	3	0	0	0
Lamoille	32	16	1	14	1	0
Orange	21	8	0	6	0	0
Orleans	58	37	3	17	1	0
Rutland	65	39	0	18	4	0
Washington	61	27	0	29	1	1
Windham	85	30	6	48	0	1
Windsor	78	32	2	40	0	2
<b>Total</b>	<b>797</b>	<b>369</b>	<b>24</b>	<b>366</b>	<b>13</b>	<b>4</b>

The total 797 cases also includes 21 cases that were resolved by change of venue, diversion, drug court, mental health court, youthful offender or transfer to juvenile court.<sup>3</sup>

## II. Felony domestic assault charge dispositions by county

Of the 3,396 felonies filed in the Criminal Division of the Vermont Superior Court in FY17, 497 were felony domestic violence charges.<sup>4</sup> Although this represents a small decrease (503 v. 497) from last year, felony domestic charges have increased 47% in the last 10 years.<sup>5</sup>

There were 409 felony domestic assault charges brought pursuant to 13 V.S.A. § 1043 and 1044 that were disposed in 2017. Of those, the largest number of cases were dismissed by the prosecutor, 256 (63%) followed by 126 resolved by plea (31%).

<b>Felony Domestic Assault</b>						
<b>County</b>	<b>Total</b>	<b>Plea</b>	<b>Trial</b>	<b>Dismissed By Prosecutor</b>	<b>Dismissed By Court</b>	<b>No Probable Cause</b>
Addison	9	4	0	3	0	0
Bennington	47	12	3	32	0	0
Caledonia	25	11	0	12	1	0

<sup>3</sup> Data provided by the Crime Research Group, <http://www.crgvt.org>. Note this data is for calendar year 2017. ("CRG")

<sup>4</sup> Appendix I

<sup>5</sup> Vermont Judiciary Annual Statistical Report for FY17, p. 27.

Chittenden	91	20	0	67	4	0
Essex	5	2	0	2	1	0
Franklin	41	16	0	25	0	0
Grand Isle	3	0	1	1	1	0
Lamoille	15	3	0	10	1	1
Orange	4	2	0	2	0	0
Orleans	40	16	1	22	1	0
Rutland	53	20	1	26	5	1
Washington	27	7	0	20	0	0
Windham	16	5	0	11	0	0
Windsor	33	8	0	23	0	0
<b>Total</b>	<b>409</b>	<b>126</b>	<b>6</b>	<b>256</b>	<b>14</b>	<b>2</b>

Note that the 409 total cases also includes 5 cases not reflected in the subcategories above that were resolved by a change of venue or youthful offender program. The total does **not** include 7 cases filed in Chittenden county on human trafficking charges pursuant to 13 V.S.A. § 2652.<sup>6</sup>

Violations of Abuse Prevention Order dispositions by county

There were 471 violations of abuse orders under 13 V.S.A. § 1030, both felony and misdemeanor charges, disposed in 2017. Most charges were misdemeanor charges, 409 misdemeanors compared to 62 felonies. Grand Isle, Lamoille, Orleans, and Windsor had no felonies.

Most cases, 230 of the 471 (49%) were resolved by plea. One hundred and ninety-nine (199 or 42%) were dismissed by the prosecutor. Eight were resolved by trial.

<b>Abuse Prevention Order Violations, Felony &amp; Misdemeanor</b>						
<b>County</b>	<b>Total</b>	<b>Plea</b>	<b>Trial</b>	<b>Dismissed By Prosecutor</b>	<b>Dismissed By Court</b>	<b>No Probable Cause</b>
Addison	20	12	0	4	0	4
Bennington	38	22	0	13	1	2
Caledonia	33	20	1	12	0	0
Chittenden	116	42	1	67	1	5
Essex	6	6	0	0	0	0
Franklin	48	29	0	17	0	1
Grand Isle	2	2	0	0	0	0
Lamoille	14	3	0	5	1	5
Orange	13	7	0	5	0	0
Orleans	20	9	2	7	0	1
Rutland	49	29	0	16	0	2
Washington	35	9	2	19	3	1

<sup>6</sup> Data provided by CRG.

Windham	49	21	2	25	1	0
Windsor	28	19	0	9	0	0
<b>Total</b>	<b>471</b>	<b>230</b>	<b>8</b>	<b>199</b>	<b>7</b>	<b>21</b>

Categories above do not include the following dispositions: change of venue (2), drug court (2), diversion (1), transfer to juvenile court (1).<sup>7</sup>

### Civil Relief from Abuse Orders in Vermont Family Court

According to the Court Administrator's office, there were 3,125 relief from abuse orders added in FY17 and 3,156 disposed. The total number of orders have declined slightly over the past five years.<sup>8</sup>

Of the 3,156 disposed, 2,386 (76%) were granted temporary orders and 759 were denied. Of the 2,386 granted temporary orders, 1,142 (48%) were granted a final order.<sup>9</sup> Of the 3,125 added in FY17, 725 of these were applied for after regular court hours.

### Relief from Abuse Orders by County<sup>10</sup>

County	Total Relief From Abuse Disposed	Temp Order Granted/ %	Final Order Granted/ %
Addison	147	111 (76%)	56 (50%)
Bennington	292	240 (82%)	122 (51%)
Caledonia	166	140 (84%)	47 (34%)
Chittenden	572	515 (90%)	212 (41%)
Essex	27	26 (96%)	9 (35%)
Franklin	297	217 (73%)	107 (40%)
Grand Isle	32	23 (72%)	15 (65%)
Lamoille	133	103 (77%)	49 (48%)
Orange	105	78 (74%)	39 (50%)
Orleans	185	168 (91%)	88 (52%)
Rutland	454	309 (68%)	188 (61%)
Washington	327	199 (61%)	77 (39%)
Windham	213	134 (63%)	81 (60%)
Windsor	195	123 (63%)	52 (42%)
<b>Total</b>	<b>3,145</b>	<b>2,386</b>	<b>1,142</b>

<sup>7</sup> Data provided by CRG.

<sup>8</sup> Vermont judiciary Annual Statistical Report for FY17, p. 16. Note there were 11 cases statewide that involved a change of venue that are reflected in the total disposed but do not count toward the percentage of orders granted.

<sup>9</sup> *Id.* At 21, Appendix I.

<sup>10</sup> Appendix II

## Civil Stalking and Sexual Assault Orders in Vermont Superior Court

Title 12 provides for protection orders for non-household and non-family members regarding stalking and sexual assault. According to the Court Administrator's Office, there were 883 orders against stalking or sexual assault added in FY17 and 852 orders disposed.<sup>11</sup> Unlike abuse prevention orders, orders against stalking or sexual assault are handled by the Civil Division of the Vermont Superior Court. There is no after-hours process currently available for these orders. Although most civil cases types have declined, the number of protection orders filed has increased 29% over the last five years.<sup>12</sup>

Of the 850 orders disposed in FY17 (not including two change of venue cases), 602 or 71% resulted in a temporary order and 260 or 43% received final orders.

### Orders against Stalking or Sexual Assault by County<sup>13</sup>

County	Orders Disposed	Temporary granted/%	Final granted/%
Addison	34	22 (65%)	11 (50%)
Bennington	89	72 (81%)	36 (50%)
Caledonia	66	57 (86%)	15 (26%)
Chittenden	146	101 (69%)	46 (46%)
Essex	9	9 (100%)	0 (0%)
Franklin	127	108 (85%)	39 (36%)
Grand Isle	15	6 (40%)	2 (33%)
Lamoille	40	29 (73%)	11 (38%)
Orange	24	19 (79%)	6 (32%)
Orleans	44	37 (84%)	14 (38%)
Rutland	133	86 (65%)	43 (50%)
Washington	21	3 (14%)	2 (67%)
Windham	39	18 (46%)	9 (50%)
Windsor	63	35 (56%)	26 (74%)
<b>Total</b>	<b>850</b>	<b>602</b>	<b>260</b>

### Participants in Domestic Violence Accountability Programs

According to data provided by the Vermont Council on Domestic Violence, who oversees domestic violence accountability programming in Vermont, there were a total of 385 participants for FY2017. The following is a breakdown by county:

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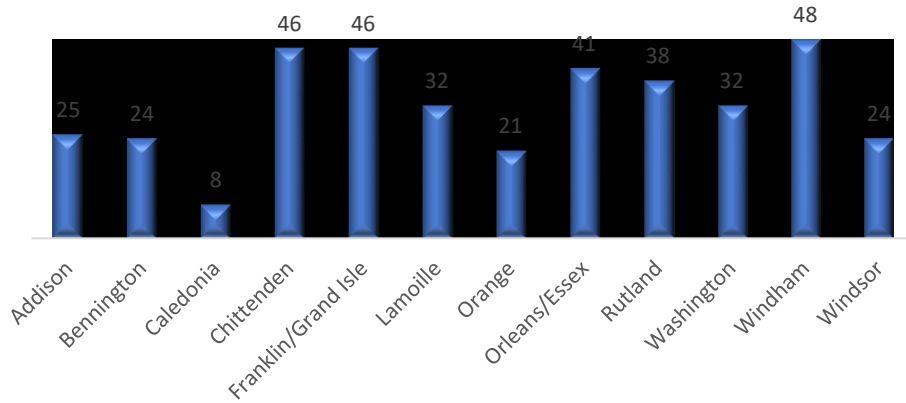
<sup>11</sup> Appendix I

<sup>12</sup> Vermont Judiciary Annual Statistical Report for FY17, p. 33

<sup>13</sup> Appendix II



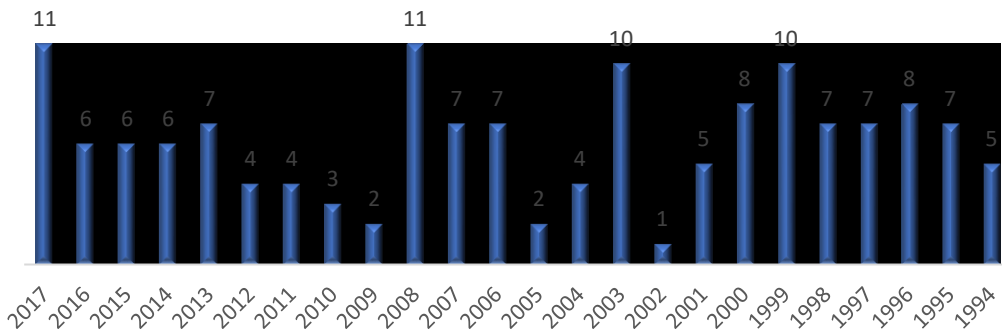
### DV Accountability Programs



### HISTORICAL DATA – 1994 TO 2017

From 1994-2017, there were a total of 296 **adult** homicides. Of those, there have been 148 adult, domestic-violence-related homicides (50%).

### Total # DV Homicides



### Homicide and Fatality Chart 1994 to 2017

Year	Total # Adult Homicides	Partner	Ex Partner	Family Member Non Partner	Household Member Non Partner	Other DV Related	Total # DV	Total % DV	RP Suicide /Att Suicide
2017	17	3	3	3	1	1	11	65%	2 / 0
2016	15	4	0	1	1	0	6	40%	1 / 0
2015	16	0	1	4	0	1	6	38%	1 / 0
2014	11	3	0	1	1	1	6	55%	1 / 0
2013	12	3	1	1	0	2	7	58%	3 / 2
2012	13	0	1	3	0	0	4	31%	1 / 0
2011	8	3	1	0	0	0	4	50%	0 / 0
2010	9	0	0	2	0	1	3	33%	1 / 0

2009	4	0	1	0	0	1	2	50%	1 / 1
2008	15	5	0	3	0	3	11	73%	0 / 1
2007	11	1	2	2	2	0	7	64%	3 / 0
2006	16	2	1	2	1	1	7	44%	0 / 0
2005	12	0	0	0	0	2	2	17%	0 / 0
2004	10	3	1	0	0	0	4	40%	1 / 0
2003	15	1	2	4	1	2	10	67%	0 / 0
2002	10	1	0	0	0	0	1	10%	0 / 0
2001	13	0	0	3	1	1	5	38%	0 / 0
2000	16	3	1	2	0	2	8	50%	1 / 0
1999	18	2	1	3	2	2	10	56%	2 / 0
1998	12	3	2	1	0	1	7	58%	3 / 0
1997	11	2	1	2	0	2	7	64%	2 / 0
1996	12	1	2	2	1	2	8	67%	3 / 0
1995	13	6	0	0	0	1	7	54%	4 / 0
1994	7	1	1	1	0	2	5	71%	1 / 0
<b>TOTAL</b>	<b>296</b>	<b>47</b>	<b>22</b>	<b>40</b>	<b>11</b>	<b>28</b>	<b>148</b>	<b>49%</b>	<b>29 / 4</b>

80% of the responsible parties are male. Females account for 53% of the decedents in adult, domestic violence related homicides.

#### Gender

<b>Decedents Total</b>	<b>148</b>
Male	70
Female	78

#### Responsible Parties

<b>Responsible Parties Total</b>	<b>148</b>
Male	118
Female	30

#### Relationship

Most adult, domestic violence-related homicides have involved a current intimate partner:

<b>Relationship</b>	<b>#</b>
Partner	47 (32%)
Ex-partner	22 (15%)
Family	40 (27%)
Household	11 (7%)
Other	28 (19%)

## County

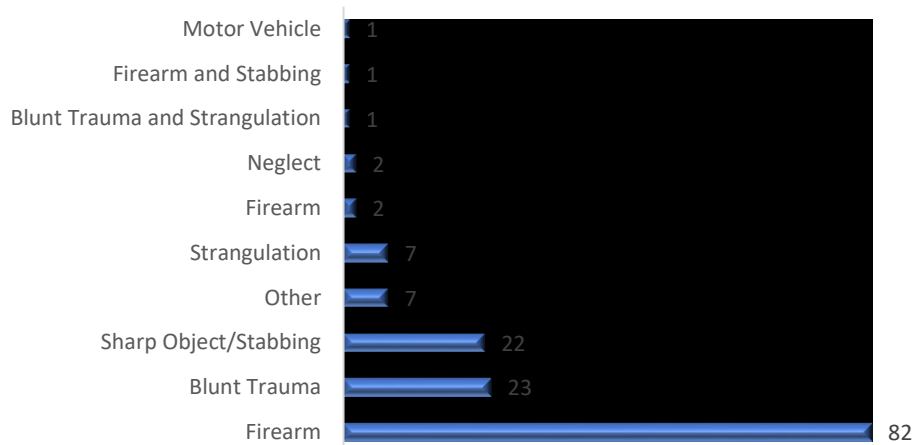
Rutland County, with a population of 61,642, has experienced the most adult, domestic violence related homicides. Chittenden County, Vermont's most populated county with 156,545 residents had the second largest number. All counties have experienced at least two adult, domestic violence-related homicides. These homicides by county are broken down as follows:

Addison	9
Bennington	9
Caledonia	13
Chittenden	24
Essex	4
Franklin	6
Grand Isle	2
Lamoille	5
Orange	7
Orleans	9
Rutland	27
Washington	12
Windham	8
Windsor	13
<b>Total</b>	<b>148</b>

## Method

Most domestic violence-related homicides have been committed with firearms (55%).

### Cause of Death



## Child Witnessing

Between 1994 and 2017, there were 50 children who were either at the scene of the domestic violence related homicide when the incident occurred or who were at the crime scene immediately before or after the incident.

## Abuse Prevention Orders

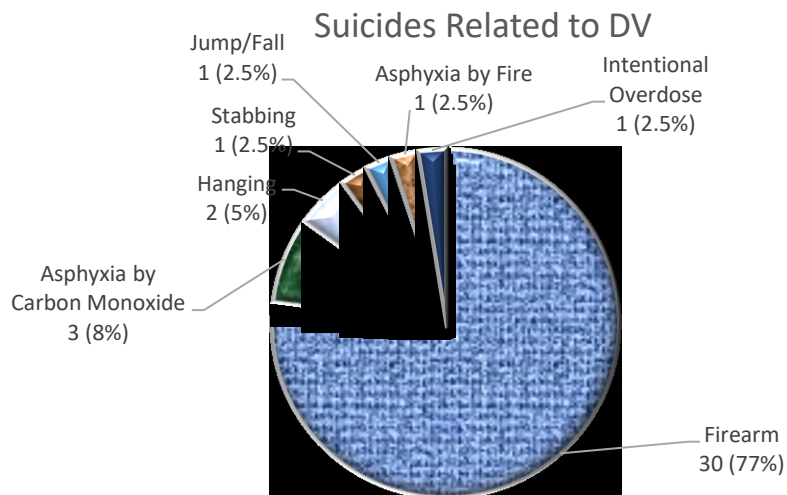
From 1994-2017, there were 19 victims of domestic violence related homicide (13%) who had a current Relief from Abuse Order in effect against the responsible part.

## Officer Involved Shooting

From 1994-2017, there have been four domestic violence suspects killed by law enforcement.

## Suicide

There have been 39 domestic violence-related suicides, 35 men and 4 women. Most (31) of these are responsible parties who have died by suicide after committing a homicide. The number also includes a very small number of persons who have died by suicide as a result of trauma related to domestic violence. This is very likely an underrepresentation of the true number. The Commission knows of an additional four responsible parties who attempted suicide following a homicide. Most domestic violence-related homicides involve the use of a firearm.



## **PART FOUR: UPDATES**

### **Firearm Storage**

In 2009, the Commission recommended that the Vermont legislature “consider adoption of a law that would govern the relinquishment, inventory, storage and return of guns for defendants subject to relief from abuse orders.” The Commission discouraged the common practice in Vermont of permitting family members to store firearms for the defendant and identified the lack of gun storage capacity as a problem. In 2014, the legislature responded and passed a firearm storage law, 20 V.S.A. § 2307, but this law still permits storage by a third party (including a relative) “unless the court finds that relinquishment to the other person will not adequately protect the safety of the victim.” 20 V.S.A. § 2307 (b)(2)(A). The third party is required to execute an affidavit providing certain assurances to the court. The lack of gun storage capacity at local police departments and state police barracks continues to be a problem.

This year the legislature amended 20 V.S.A. § 2305 to permit the Commissioner of Public Safety to transfer abandoned firearms to the Commissioner of Buildings and General Services (BGS) for sale to a federally licensed firearms dealer (FFL). Prior to the amendment, the state police were required to turn over the firearms to the state treasurer for sale, but the state treasurer’s office was not equipped to conduct sales and the process had led to a tremendous backlog of firearms. BGS already operates property sales for the state and agreed to accept this responsibility. The statute also defines abandoned firearms, directs that 2/3 of the net proceeds from the sales be returned to the local municipality and that these proceeds shall be used to offset the cost of storing non-evidentiary firearms.

Reducing the backlog of firearms should result in greater storage capacity and reduce reliance on third party storage. Very small departments which lack any storage capacity should proactively arrange for storage with state police or FFLs. Every state police barracks has the capacity to hold some non-evidentiary firearms. We encourage state police to work with FFLs to create a system to transfer non-evidentiary firearms to the FFLs if the firearms are going to be held for more than 30 days.

### **Temporary Removal of Non-Evidentiary Firearms in Domestic Violence Incidents**

The legislature also passed two other important provisions to allow removal of non-evidentiary firearms in domestic violence cases. Act 92, which passed unanimously and was supported by the Governor, allows a police officer to temporarily remove a firearm immediately at the scene, if the defendant is being charged with a domestic assault, in order to protect the victim. The officer must have probable cause to arrest/cite the defendant, and the officer must have a proper legal basis for obtaining the firearm absent a warrant, but the firearm does not need to be evidence of any crime nor does possession of the firearm itself have to be illegal at the time for the officer to remove it. At the arraignment, the court is required to decide whether the firearm(s) should continue to be held under some other legal basis, such as the existence of a

relief from abuse order or conditions of release that prevent access to firearms. If there is no other legal basis to continue holding the firearm, it must be made available for return to the owner within three business days.

### **Extreme Risk Protection Orders**

The other basis to remove firearms that could be used in a domestic violence incident is the new law governing extreme risk protection orders, 13 V.S.A. § 4051. A petition may be filed by the state's attorneys' office or the attorney general's office and requires an affidavit. In order to obtain a temporary emergency ex parte order, the affidavit must demonstrate that it is more likely than not that the defendant poses an imminent and extreme risk of harm to others or himself by having a weapon. Defendant is entitled to a hearing within 14 days. At the final hearing, the state must prove by clear and convincing evidence that defendant still poses an extreme risk of harm to himself or others by having a weapon. If the state prevails, the court may issue an order for up to six months. Like abuse prevention orders, family court has jurisdiction over extreme risk protection orders and they are available after regular court hours. Failure to comply with an extreme risk protection order is a misdemeanor punishable by up to one year in jail or \$1,000 fine or both. Like the firearm storage law, storage with family member or third party other than law enforcement or a FFL is permissible "unless with court finds that relinquishment to the other person will not adequately protect the safety of any person." 13 V.S.A. § 4059(b)(2)(A).

### **CONCLUSION**

Vermont's Domestic Violence Fatality Review Commission wants to thank all of our witnesses, family members, state agencies, and community partners for their collaboration and conscientious efforts over the past years. We are inspired by the steps taken in response to our recommendations and hope to have more progress to report next year toward our goal of ending domestic violence in Vermont. We encourage community members to continue to provide us suggestions and to refer cases for the Commission to Review. The Commission looks forward to continuing our work together to keep Vermonters safe.

**If you or someone you know needs help...**

### **Domestic Violence Resources**

1. **Vermont Network Against Domestic and Sexual Violence**  
<https://vtnetwork.org/>  
Statewide Domestic Violence Hotline: 1-800-228-7395  
Statewide Sexual Violence Hotline: 1-800-489-7273
2. **Deaf Vermonters Advocacy Service (DVAS)** <https://www.dvsas.org/>  
Hotline: (802) 661-4091
3. **Pride Center of Vermont Safespace Program** Support for LGBTQ survivors of violence [www.pridecentervt.org/programs/safespace](http://www.pridecentervt.org/programs/safespace)  
Support line hours: Monday through Thursday 9am – 6pm and Friday 9am – 2pm  
Hotline: 1-802-863-0003  
Toll Free 1-866-869-7341  
Email: [safespace@pridecentervt.org](mailto:safespace@pridecentervt.org)
4. **National Network to End Domestic Violence** <https://nnedv.org/>  
1/800-799-SAFE (7233) TTY 1-800-787-3224

### **Suicide Prevention Resources**

1. **Vermont Suicide Prevention Lifeline:** 802-273-8255
2. **Dial 211:** for a Counselor if you are in VT
3. **Confidential online chat:** [www.suicidepreventionlifeline.org](http://www.suicidepreventionlifeline.org)
4. **National Suicide Prevention Lifeline:** 800-273-TALK (8255)