

STATE OF VERMONT
DOMESTIC VIOLENCE
FATALITY REVIEW COMMISSION
REPORT



2009

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DEDICATION

This report is dedicated to all Vermont families. The Commission hopes that our work will make their Vermont homes safer places to live work and play.

INTRODUCTION

On May 2, 2002, then Governor Howard Dean signed into law H. 728 which created Vermont's Domestic Violence Fatality Review Commission. See Appendix A for a copy of the Bill. 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. Vermont joined 28 other states and the District of Columbia in creating a multi-disciplinary domestic violence fatality review group. The theory behind all these review groups is that by examining data and information the Commission will be better able to understand why and how the fatalities occurred and what Vermont can do to prevent these fatalities.

This is the Seventh Commission Report. This Report includes data regarding fatalities for 2008 and updates the statistical information that dates back to 1994. In 2007 and 2008, the Commission completed in total two in-depth case reviews and case recommendations from those reviews are discussed in this Report. Finally, the Report provides an update on the Commission's earlier recommendations.

COMMISSION AND MEMBERSHIP

The Domestic Violence Fatality Review Commission operates under the auspices of the Office of Attorney General in consultation with the Vermont Council on Domestic Violence pursuant to 15 VSA Sec. 1140.

Under 15 VSA Sec. 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, 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.

Pursuant to 15 VSA Sec. 1140(b), the Commission is comprised of 15 members, consisting of the following:

- The Attorney General, or his or her designee;
- The Commissioner of the Department of Health, or his or her designee;
- The Commissioner of Social and Rehabilitation Services¹, or his or her designee;
- The Commissioner of the Department of Corrections, or his or her designee;
- The Commissioner of the Department of Public Safety, or his or her designee;
- The Chief Medical Examiner, or his or her designee;
- A State’s Attorney with experience prosecuting domestic violence cases, appointed by the Executive Director of the Vermont State’s Attorneys’ Association;
- The Defender General, or his or her designee;
- A member of the Vermont Coalition of Batterer Intervention Services;
- A member of the Vermont Network Against Domestic and Sexual Violence;
- A representative of the Vermont Council on Domestic Violence;
- A representative of local law enforcement, appointed by the Governor;
- A victim or survivor of domestic violence, appointed by the Vermont Network Against Domestic and Sexual Violence;
- A physician, appointed by the Governor; and
- The Executive Director of the Vermont Criminal Justice Training Council, or his or her designee.

Appendix C lists the current members of the Commission.

SUMMARY OF COMMISSION’S ACTIVITIES IN 2008

In January of 2008, the Commission issued its annual Report. As required by 15 VSA Sec. 1140, the Commission distributed its report to the General Assembly, the Governor, the Chief Justice of the Vermont Supreme Court and the Council on Domestic Violence.

During 2008, the Commission met bi-monthly and the Executive Committee met monthly. In addition, during the case review process, the Commission scheduled additional meetings. The Commission completed one case review in 2007 and one in 2008. Both of those case reviews are discussed in this report. Also in 2008, the Commission commenced two other case reviews that will be completed in 2009 and reported on in the 2010 Report.

In 2008, in response to the May 2007 Protocol with the Vermont Council on Domestic Violence, the Commission re-organized its structure. The 2007 protocol provided the Council with new responsibilities and initiated a new joint effort with the Commission to work together to implement recommendations. The

¹ Now known as Department for Children and Families (DCF) and Department for Children and Families, Family Services Division (FSD).

Commission and Council are working collaboratively to identify recommendations the Council can assist with in terms of implementation. Given these new roles, the Commission decided to disband the Executive Committee and authorized the Chair of the Commission and the Coordinator of the Council to meet regularly and work on recommendation implementation. The Commission determined this was a better use of all the Commission members' time. A copy of the 2007 Protocol is attached as Appendix E.

On June 9, 2008, the Commission along with the Vermont Domestic Violence Council held a statewide conference that highlighted the work of the Commission and specifically addressed a 2007 recommendation regarding bystander and witnessing issues. The Conference entitled "Before It's Too Late: Taking Action to Prevent Domestic Violence Homicides in Vermont Communities" was held in Killington and had 240 attendees. The attendees included: law enforcement, court staff, advocates, domestic violence task forces, health care providers, Corrections personnel, teachers, counselors, attorneys, prosecutors, supervised visitation staff, and health care professionals.

At the conference, three national presenters provided an overview of domestic and sexual violence fatalities and distributed materials on how to implement a bystander education and public awareness campaign. The presenters were: Neil Websdale of the National Domestic Violence Fatality Review Initiative, David Adams from EMERGE and Robert Eckstein from the University of New Hampshire. The Commission also gave a presentation on its work and Vermont's Governor, Vermont's Attorney General and the Vermont U.S. Attorney all gave presentations and/or made remarks. The attendees received a Bystander Tool Kit as part of the Conference Materials to assist them in implementing a public awareness campaign in their local community regarding domestic and sexual violence and stalking. The local domestic violence task forces were seated together at the conference and encouraged to plan a local event for October 2009 Domestic Violence Awareness Month based on the Tool Kit materials they received.

The conference was well received. According to the evaluations, the Conference was scored between very good and excellent in all categories. Because of the positive response from the 2008 conference, the Commission has created a Conference working group to attempt to plan a Commission and Council conference on a biennial basis. Stay tuned!

COMMISSION DATA FOR 2008

In 2008 there was an increase in the overall homicide rate in Vermont as well as an increase in domestic violence related fatalities. The age of victims in Vermont homicides in 2008 ranged from 7 weeks old to 80 years of age. Given the 2008 statistics, it is important to note that the Commission only includes deaths of adults that are domestic violence related. By Commission protocol, child deaths that are domestic violence related are referred to Vermont's Child Fatality Review

Team for analysis. According to Commission data, in 2008, there were 20 Vermont homicides and tragically 5 of those cases involved the deaths of children. Based on Commission protocols, the Commission will report on 15 homicides involving adult deaths and refer the 5 child cases to the Child Fatality Review Team. In the Commission review cases, 7 Vermont children were witnesses to the murders of adults. Since 1994, when the Commission started to collect data, Essex County had been the only County where a domestic violence related homicide had not occurred. Tragically, in 2008, Essex County had 2 domestic violence homicides. The last previous homicide in Essex County was in 1973.

According to the Commission's data, in 2008, there were 15 homicides of adults, 11 of which were domestic violence related as defined by the Commission.² In addition there was 1 domestic violence related suicide. In 2008, 73% of all Vermont homicides were domestic violence related and 64 % of the domestic violence related deaths were committed with firearms. The 2008 number of domestic violence related fatalities increases to 80% when the suicide that followed a domestic violence related homicide (i.e. murder/suicide) is combined. 7 of the homicides occurred in residences, and 2 occurred in public areas adjacent to residences and 2 in a public places (public park and public forest).

In terms of the relationships in the 11 domestic violence related cases, 5 males killed 5 females, 4 males killed 4 males and 2 females killed 2 males. Three of the male killing male cases involved an estranged partner confronting his estranged partner and her new partner. In one of these matters, the new partner came to the defense of the female and tragically killed the estranged partner.

According to the Commission data covering 1994 – 2008, 52% of all Vermont homicides during the past fourteen years are domestic violence related. The percentage increases to 64% incorporating suicides that followed domestic violence related homicides (i.e. murder/suicides) and suicides prompted by domestic violence. 58% of Vermont's domestic violence related homicides are committed with firearms and 79% of the suicides associated with the homicides (i.e. murder/suicides) and domestic violence are committed with firearms.

OTHER VERMONT DATA FOR 2008

VERMONT CRIME REPORT

Domestic violence continues to be an on-going problem in Vermont communities. According to the 2007 Vermont Crime Report compiled by the Department of Public Safety and released in September of 2008, the Vermont Violent Crime Index for 2007 illustrates that 93% of the violent crime cases involved intimate partners, family members or acquaintances. Approximately 65% of violent crime in

² As noted, 5 additional cases involve child fatalities and are not reflected in the 15 as the matters are referred to the Child Fatality Review Team per the Commission's Protocol.

Vermont occurs in residences, which makes the home the most frequent location for violent crime. Seven of the eleven 2008 domestic violence homicides occurred in residences and two occurred in public spaces adjacent to residences. Additional information about the Vermont Crime Report can be found at: www.dps.state.vt.us/cjs/crime_07/

VERMONT DEPARTMENT OF HEALTH

The Vermont Department of Health 2007 Youth Risk Behavior Survey, surveyed 28,918 Vermont students at 144 schools in eighth through twelfth grade. In the 2007 Survey, seven percent (7% or 2024) of the students reported that they were hit, slapped or physically hurt by a boyfriend or girlfriend. Eleven percent (11% or 3180) of the students reported that they have been touched against their wishes or forced to touch someone else sexually. Female students were over three (3) times more likely than male students to report being touched against their wishes or forced to touch someone sexually (17% v. 5%). The Vermont Department of Health conducts this survey every two years and in 2009 a new survey will be published. More information about Vermont's Youth Risk Behavior Survey is found at: www.healthvermont.gov/pubs/publications.aspx.

VERMONT DEPARTMENT OF CORRECTIONS

According to the Vermont Department of Corrections, one thousand two hundred and seventy eight (1278) persons were under the supervision of Corrections³ as of June 30, 2008 for domestic violence related offenses⁴. Of those offenders, three hundred (300) were incarcerated, seven hundred and forty three (743) were on Probation and two hundred and thirty five (235) were either on Parole or furlough statuses. Of the overall population of persons under Corrections' supervision (11,712), the portion of those persons whose charges relate to domestic violence is approximately ten percent (10%). Importantly, this number only reflects persons for whom the designated domestic violence offense is the most serious offense. The Department cautions that there may be uncounted domestic abuse offenders with other charges that are deemed more serious by Corrections for classification purposes. For additional information regarding Department of Corrections data see www.doc.state.vt.us/about/reports/ff/2008.

VERMONT NETWORK AGAINST DOMESTIC AND SEXUAL VIOLENCE

During 2008, the sixteen member programs of the Vermont Network Against Domestic and Sexual Violence ("the Network") received and responded to fifteen thousand nine hundred and seventy four (15,974) hotline and crisis calls. The

³ Under the supervision of the Department of Corrections includes: prison; reentry; pre-approved furlough; supervised community sentence; parole; and probation.

⁴ The offenses include domestic assault; violations of abuse prevention orders; aggravated domestic assault; and stalking.

Network's member programs statewide saw sixteen thousand one hundred and twenty four (16,124) person nights in a shelter for 2008. Five hundred and fifty six (556) survivors were housed in shelters and safe homes statewide. Seven thousand four hundred and sixty four (7,464) victims of domestic violence and one thousand two hundred and thirty four (1,234) victims of sexual violence reached out to the Member Programs of the Network.

Seven thousand eight hundred and fifty three (7,853) children and youth were identified as having been exposed to domestic violence in their homes. One hundred and ninety three (193) children were sheltered in Network Program Shelters or Safehomes. One thousand one hundred and seventy five (1,175) children received services in addition to shelter, and one hundred and eighty (180) children and youth were victims of sexual violence.

Ninety nine (99) Vermonters over the age of 60 received services from Network Programs, as well as eight hundred and five (805) Vermonters with physical or emotional disabilities.

On a bright note, Network Programs' prevention/education work throughout the state reached seven thousand two hundred and two (7,202) kindergarten through high school youth, and five thousand and thirty six (5,036) college students. Additionally, seven thousand five hundred and ninety six (7,596) professional adults (teachers, health and law professionals, State agency staff, etc.) received training and education.

VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES

During 2008, the Vermont Department for Children and Families, Family Services ("DCF") Division received one thousand eight hundred and ninety-two (1,892) intake calls that identified co-occurring domestic violence and child maltreatment. Five hundred and twenty-seven (527) of these intakes were accepted and opened for investigation, resulting in seventy-three (73⁵) substantiations of child maltreatment. Staff in the DCF, Family Services Division, Domestic Violence Unit provided five hundred and fifty-one (551) hours of direct service to adult and child victims and one thousand nine hundred and seventy-three (1,973) hours of case consultation to Family Services staff and community service providers.

VERMONT CENTER FOR JUSTICE RESEARCH

According to the Vermont Center for Justice Research, in 2007, five hundred and twenty four domestic assault charges (524: 106 felonies and 418 misdemeanors) were resolved by plea. During 2007, eighteen domestic assault charges went to trial with guilty verdicts in five cases and not guilty verdicts in thirteen matters. In

⁵ There are still open investigations for 2008 that are pending substantiation decisions.

terms of sentencing, for the misdemeanor domestic assault charges, 46 % of the defendants received probation, 17% received a split sentence with incarceration followed by probation and 18 % were incarcerated. Regarding the felony convictions, 57% of the defendants received incarcerative sentences, while 25 % received a split sentences and 8.4 % received straight probation.

RELIEF FROM ABUSE ORDERS

From July of 2006 through June of 2007, according to the Office of Court Administrator, three thousand seven hundred sixty eight (3768) petitions for relief from abuse orders were filed with one thousand three hundred and thirty three (1333) final orders granted, one thousand eight hundred forty four (1844) temporary orders issued without a final order, six hundred and forty eight (648) matters resulting in no order and fourteen (14) cases being transferred to another court.

BATTERER INTERVENTION PROGRAM CERTIFICATION

As part of the statewide standards and certification process adopted by the Council, as of September of 2008, the Vermont Council on Domestic Violence reviewed the ten batterer intervention programs which serve the fourteen counties of Vermont. Every county is now served by at least one certified batterer intervention program. Certified programs will need to be reviewed at least every other year to remain certified.

VERMONT'S DATA ON A NATIONAL LEVEL

In September of 2008, in the annual study by the Violence Policy Center, "When Men Murder Women: An Analysis of 2006 Homicide Data", Vermont ranked, per capita, sixth in the nation for homicides committed by men against women with single victims in single incidents. The annual study, prepared by the Violence Policy Center, analyzed 2006 Supplemental Homicide Report Data submitted by the states to the FBI. The report breaks down the 10 states that have the highest rates of female victims and male offenders and ranks states based on what they term "female homicides" per capita. In 2006, Vermont had 6 cases that met their criteria which gave the State a rating of 1.9 per 100,000 residents. In 2006, nationally, the rate of female homicides was 1.29 per 100,000 residents. Nevada had the highest rate of 3.27 for female homicides per 100, 000 residents. As noted above, in terms of the 2008 data, there are five "female homicides" that meet the Study's criteria so depending upon Vermont's population growth in 2008, the State may find itself ranked again as having a high rate of female homicides per capita in future annual reports. The Violence Policy Center annual Report highlights the

seriousness of the problem in Vermont and the nation. The Report can be found at www.vpc.org "When Men Murder Women: An Analysis of 2006 Homicide Data".

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 and related fatalities. The Commission encourages community members to refer cases for the Commission to review. A case referral form is attached as Appendix D.

SUMMARY OF 2008 DATA

Total Homicides - 15		Responsible Party	
Domestic Violence Related	11	Female	2
Female victims	5	Male	9
Male Victims	6		
Relationship			
Partner	5	Household Member	0
Ex-Partner	0	Other Domestic Violence Related	3
Family Member	3		
County Distribution			
Addison	0	Lamoille	0
Bennington	0	Orange	0
Caledonia	0	Orleans	0
Chittenden	2	Rutland	4
Essex	2	Washington	1
Franklin	0	Windham	0
Grand Isle	0	Windsor	2

Crime

Firearm (3 rifle; 4 handgun)	7	Stabbing	1
Fire	0	Blunt Trauma	3
Strangulation	0	Motor Vehicle	0
Drowning	0		
Children Present			7
Locations of Homicides			
In Residence	7	Outside Residence in Street	1
In Workplace	0	Outside Residence in Hall	1
In Public Place	2		
Domestic Violence Related Homicides			73%
Domestic Violence related Homicides including two suicides (Note: one suicide caused by firearm)			80%

Note: "Other Domestic Violence Related" is defined as a homicide where the responsible party and the victim fit none of the above relationships but the fatality is related to domestic violence (e.g. estranged spouse kills ex-spouse's current intimate partner, law enforcement officer kills person while responding to a domestic violence incident). Please see page 10 for additional Commission definitions.

HOMICIDE AND DOMESTIC VIOLENCE RELATED FATALITIES CHART 1994⁶⁷-2008

Year	Total # Homicides	Partner	Ex-Partner	Family Member	Household Member	Other DV Related	Total # DV	Total % DV
2008	15*	5	0	30	0	3	11	73%

⁶ 1 homicide remains under investigation and is reflected in the total number of homicides but the

Commission is unable to determine at this time if it is domestic violence related. The data will be updated when further information is available. ³ One additional case under investigation involves a child fatality and is not reflected in the 10 as the matter would be referred to the Child Fatality Review Committee per the Commission's protocol. Also, in addition to the 10 cases, 1 responsible party committed suicide following the homicide.

⁷ 1 case remains under investigation and is reflected in the total number of homicides but the Commission is unable to determine if it is domestic violence related. The data will be updated when further information is available. ⁵ 1 case remains under investigation and is reflected in the total number of homicides but the Commission is unable to determine if it is domestic violence related. The data will be updated when further information is available. ⁶ In addition to these 16 cases, 1 responsible party committed suicide following the homicide.

2007	11 ¹	1	2	2	2	0	7	64%
2006	15	2	1	1	1	1	6	40%
2005	12 ²	0	0	0	0	2	2	17%
2004	10 ³	3	1	0	0	0	4	40%
2003	15	1	2	4	1	2	10	66%
2002	10 ⁴	1	0	0	0	0	1	10%
2001	13 ⁵	0	0	3	1	1	5	38%
2000	16 ⁶	3	1	2	0	2	8	50%
1999	18 ⁸	2	1	3	2	2	10	56%
1998	12 ⁸	3	2	1	0	1	7	58%
1997	11 ⁹	2	1	2	0	2	7	64%
1996	12 ¹⁰	1	2	2	1	2	8	67%
1995	13 ¹¹	6	0	0	0	1	7	54%
1994	7 ¹²	1	1	1	0	2	5	71%
TOTAL	190	31	14	24	8	21	98	52 %

*Five cases involve child fatalities and are not reflected in the 15 as the matters are referred to the Child Fatality Review Team. One responsible party committed suicide following the homicide.

¹ One case under investigation involves a child fatality and is not reflected in the 11 as the matter was referred to the Child Fatality Review Team. Also, in addition to the 11, 3 responsible parties committed suicide following the homicides.

DEFINITIONS

DV – Domestic Violence

Partner – Homicide where the responsible party and victim are intimate or dating partners (e.g. spouse kills spouse, boyfriend kills girlfriend)

Ex-Partner – Homicide where the responsible party and victim were intimate partners formerly but are not currently (e.g., divorced spouse kills spouse, ex-girlfriend kills ex-boyfriend)

Family Member – Homicide where the responsible party and the victim were not intimate partners or dating partners but are family members

Household Member – Homicide where responsible party and victim currently or formerly lived in the same household but were not intimate or dating partners of family members (e.g., child living with non-related caregiver)

Other Domestic Violence (DV) Related – Homicide where the responsible party and the victim fit none of the above relationships but the fatality is related to domestic violence (e.g. estranged

⁸ In addition to these 18 cases, 2 responsible parties committed suicide following the homicides. 1 case remains under investigation and is reflected in the total number of homicides but the Commission is unable to determine if it is domestic violence related. The data will be updated when further information is available. ⁸ In addition to these 12 cases, 3 responsible parties committed suicide following the homicides.

⁹ In addition to these 11 cases, 2 responsible parties committed suicide following the homicides.

¹⁰ In addition to these 12 cases, 3 responsible parties committed suicide following the homicides. Also, 1 case remains under investigation and is included in the total homicide number but not the domestic violence number. The data will be updated when further information is available.

¹¹ In addition to these 13 cases, 4 responsible parties committed suicide following the homicides and 2 cases remain under investigation and are included in the total homicide number but not in the domestic violence number. The data will be updated when further information is available.

¹² In addition to these 7 cases, 1 responsible party committed suicide after the homicide.

spouse kills ex-spouse's current intimate partner, law enforcement officer kills person while responding to a domestic violence incident)

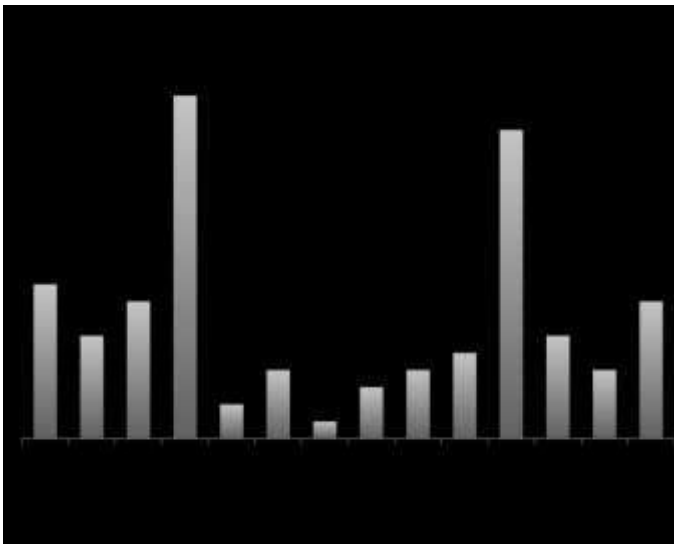
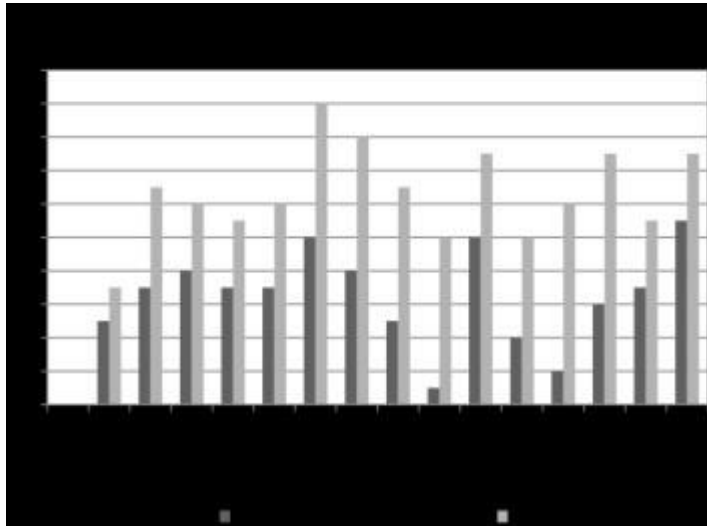
Responsible Party – The responsible party is the person to whom the fatality can be attributed. It is a broader term than defendant or perpetrator. For example, it may include a convicted defendant, a battered spouse who was not charged with the fatality due to self-defense or a police officer responding to a domestic violence incident that kills one of the parties in the course of his/her duty.

SUMMARY OF DATA FROM 1994 – 2008

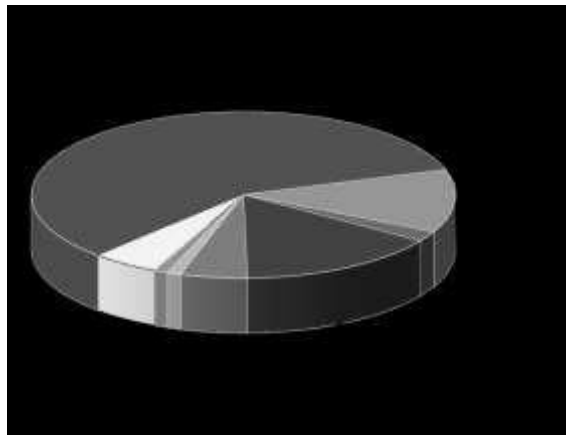
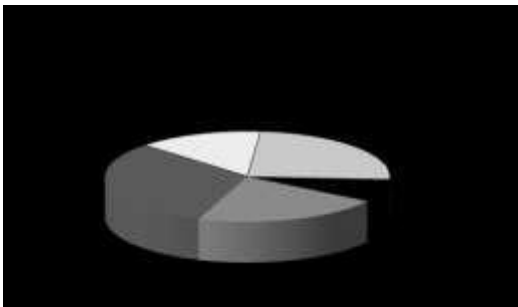
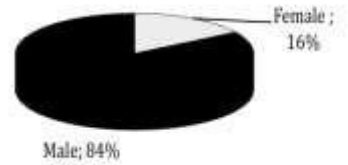
SUMMARY OF DATA FROM 1994 – 2008			
Homicides	Total – 190		
Domestic Violence Homicides	Total 98 or 52%		Responsible Party
	• Female victims	53	• Female 16
	• Male Victims	45	• Male 82
Relationship	Partner	31	Household Member 8
	Ex Partner	14	Other Domestic
	Family Member	24	Violence Related 21
County Distribution	Addison	9	Lamoille 3
	Bennington	6	Orange 4
	Caledonia	8	Orleans 5
	Chittenden	20	Rutland 18
	Essex	2	Washington 6
	Franklin	4	Windham 4
	Grand Isle	1	Windsor 8
Manner of Homicide	Firearm	57	Strangulation 5
	Stabbing	12	Motor Vehicle 1
	Fire	2	Blunt Trauma & 1
	Blunt trauma	15	Strangulation 5
			Other
Children Present	At crime scene	33	Aware of crime scene immediately before 6
Law Enforcement Related Cases	3 (3 cases where domestic violence suspects were killed by law enforcement)		
Suicides related to domestic violence	Total:	24 ¹³	Female 2
			Male 22
	Firearm	19	Asphyxia by Fire 1
	Stabbing	1	Asphyxia by Carbon Monoxide 1
	Hanging	1	Jump/Fall 1

DOMESTIC VIOLENCE RELATED HOMICIDE CHARTS

¹³ When these suicide figures are combined with the domestic violence related homicide numbers for 1994 – 2008, the percentage of homicides that are domestic violence related is 64%.



GENDER OF RESPONSIBLE PARTY



SUMMARY OF 2007 AND 2008 CASE REVIEWS

During 2007 and 2008, the Commission completed in-depth reviews of two fatalities. In the reviews, we heard from a variety of witnesses including surviving

family members, co-workers, and social service, law enforcement, judicial and prosecuting agencies. We also reviewed documents provided by government agencies and families. Pursuant to 15 V.S.A. Section 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.

CASE REVIEW INFORMATION

In the two fatalities reviewed, the manner of death was homicide by firearm of a female followed by the male responsible party committing suicide with the same firearm and suicide by firearm of a male following an alleged sexual assault of a female estranged partner. All of the deaths occurred in residences.

In both cases the male partners were estranged from their partners. In one case, the parties were married for 28 years and in the other they had been dating for 5 years. The married couple was living separately, in the process of obtaining a divorce and there were no relief from abuse orders issued. In that case there was no involvement of the criminal justice system or the social service system although there were observations by family and friends of a longstanding pattern of isolation and control by the male partner over the female partner. The dating couple had recently broken up. The female initiated the break up and she had obtained a final relief from abuse order against the male since the separation. In both matters, the responsible partners did not have extensive criminal history records. In one case, the responsible party had no criminal record and in the other review the responsible party had minor criminal infractions when he was in his teens. In both cases, the males were employed and had histories of controlling behavior and access to and familiarity with firearms. In both cases, the males had identified mental health issues and in one case the male was receiving treatment and in the other it was unclear whether he was receiving treatment and medications although he indicated to family members that he was.

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. During the reviews, the Commission identified a number of strengths and we note the following positive practices.

DUTY TO WARN

- In one case, the Employees Assistance Program followed its duty to warn policy and took critical steps by disclosing the defendant's threats to the victim in a timely manner which allowed her to take actions to protect herself.

SAFETY PLANNING

- In one case the local domestic violence program provided very effective safety planning with the victim. The plan was specific and incorporated a review of lethality risk factors which allowed the victim to consider the danger of her circumstances and incorporate steps to reduce those risks.

BEST PRACTICES FROM NEIGHBOR STATE

- In one of the review cases, we heard testimony about a neighboring state's practices as the case had events that occurred in that state. We noted that the neighboring state had adopted practices that were effective and worth considering introducing in Vermont. Those practices included:
 - ❖ The local domestic violence programs train judges regarding lethality assessment tools.
 - ❖ One Family Court judge presides over all pending cases for family court litigants in one county.
 - ❖ The State has a state statute governing the relinquishment, inventory, storage and return of firearms that are seized pursuant to a relief from abuse order.
 - ❖ A local practice exists between domestic violence programs and local police departments that victims are referred to services at scene by police placing a phone call to services and giving the phone to the victim. Another option is bringing the victim to the station and allowing them to call for services at the station. Local domestic violence programs will respond by going to the station to connect with victim.
 - ❖ Relief from Abuse Orders are faxed to the serving agency by the issuing Court and the state statute allows for constructive service by publication.

CASE REVIEW RECOMMENDATIONS

The Commission makes the following recommendations reflecting issues common to both cases. 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 with these entities.

In no way did the Commission intend to imply that any agency or policy is responsible directly or indirectly for these deaths. The goal of the Commission in making these recommendations and determining the system's response is to increase the safety of all Vermonters.

RECOMMENDATIONS

MEDIA

The Commission recommends that the Commission, together with the Vermont Council on Domestic Violence, the Vermont Network Against Domestic and Sexual Violence and the University of Vermont's Anti-Violence Partnership engage with local media to raise public awareness about domestic violence related homicides, and resources available to victims, perpetrators, family and community members in Vermont. The Anti-Violence Partnership has commenced an initiative relating to media coverage of sexual and domestic violence and the Commission hopes to be able to contribute to the work of that initiative.

DEPARTMENT OF HEALTH

The Commission recommends that the Governor and/or the Vermont Department of Health issue a public health advisory identifying domestic violence as a public health issue in Vermont. The statement would raise awareness among Vermonters regarding available resources and encourage health care providers to effectively respond to suspected cases of domestic violence in their practices.

COMMENT FOR TWO RECOMMENDATIONS ABOVE

In one of our review cases there were no court systems or social service systems involved but the case illustrated a need for targeted support of families and friends who may recognize controlling, abusive, harmful risk factors—but may be unsure of how to support victims, or challenge the behavior of the perpetrator. In crafting these recommendations, the Commission researched initiatives from other states as to ways to educate the community through accurate media coverage and to encourage the community to see domestic violence as a public health issue that affects us all. The Commission reviewed resources compiled by the Vermont

Network Against Domestic and Sexual Violence, Vermont 211, the state of Massachusetts Department of Health and the New York City Department of Health and Mental Hygiene.

For example, in June of 2008, the Massachusetts Department of Public Health (DPH) issued a public health advisory in response to a spike in domestic violence related deaths. In Massachusetts, public health advisories are tools reserved for communicating urgent information to the public on health issues facing the community. Such advisories define the scope of the problem and provide important information on prevention and treatment.

"We use these advisories to alert the public and health care providers throughout our state to pay attention to a pressing health issue," said DPH Commissioner John Auerbach. "The recent spate of domestic violence-related deaths in Massachusetts is disturbing. Domestic violence in any form is unacceptable and we can all play a part in preventing abuse from happening to anyone in the Commonwealth." The DPH advisory identified the problem and then provided information for the public, for perpetrators, victims and for health care providers. DPH wanted to assure the public and health care providers that resources exist for victim advocacy, counseling and shelter services, as well as programs to hold batterers accountable and prevent domestic violence incidents. In addition to issuing the advisory through the media, DPH also sent a copy of the advisory to all health care facilities in Massachusetts.

RECOMMENDATION

DEPARTMENT OF EDUCATION

The Commission recommends that the Department of Education incorporate in middle school or high school curriculum a mandatory class or workshop that addresses domestic and dating violence, intimate partner violence and sexual violence, the health risks associated with this behavior and the resources available in the community to respond to these issues. The class should provide information, encourage self-awareness and self-esteem, support tolerance and independence and make safety a priority. The Commission notes that S.13, which was introduced this session in the Senate, requires a sexual abuse prevention plan in all school health curricula and the Commission recommends that the curricula be broadened to address domestic and dating violence as well as intimate partner violence.

COMMENT

In one of our case reviews, there was a significant age difference between the victim and responsible party. In addition the relationship commenced when the victim was in her teens and still enrolled in high school while the male was in his thirties. The victim's family provided this recommendation as they concluded that

education on these topics at an early age would inform teens of the dangers associated with domestic violence.

RECOMMENDATION

FINANCIAL INSTITUTIONS

In domestic violence cases, financial independence often allows the victim the means to re-locate and maintain safety. Financial issues can also be a source of discord and difficulties. The Commission recommends that banks and credit unions adopt domestic violence workplace policies and also provide training to their employees regarding the dynamics of domestic violence and the importance of maintaining customer confidences relating to their accounts especially in those circumstances.

COMMENT

In one case review, the victim had a personal bank account that she was accessing and transferring to another financial institution while she was making plans to separate from her partner. Her confidential actions relating to her account were communicated to her estranged partner by an employee of the financial institution causing tension with her estranged partner.

RECOMMENDATION

COURT

RELIEF FROM ABUSE ORDERS AND FIREARMS

The Commission recommends that in final relief from abuse orders, Defendants not be allowed access to guns in the order even during hunting season. The Commission also recommends that in the order, family members not be given the responsibility of storing the defendants' weapons.

COMMENT

In one review case, the final relief from abuse order allowed the defendant to have access to his firearms during hunting season and the firearms were given to family members who were supposed to determine if the defendant was under the influence of drugs or alcohol before allowing him access to the guns. The Commission notes that the defendant in this circumstance was a prohibited person under the federal Gun Control Act and a better practice would be for the Court to limit the defendant's access to firearms in the order in order to protect the defendant as well as family members.

Defendants subject to a qualifying final relief from abuse order are considered prohibited persons under the federal Gun Control law and are restricted from possessing firearms during the pendency of the order. The relevant provisions of the federal Gun Control Act prohibit a domestic violence offender who is subject to a relief from abuse order or convicted of a qualifying domestic violence offense or felony from possessing or purchasing a firearm or ammunition. The Act also criminalizes the act of knowingly giving a prohibited person a firearm. Section 922(g)(8) and (g)(9) of Title 18, United States Code.

It is settled law in Vermont that District Court Judges have the authority to prohibit defendants in relief from abuse proceedings to possess firearms based on the Vermont relief from abuse statute. In Benson v. Muscari, 172 VT 1 (2001), the Vermont Supreme Court concluded that the general authority of the court under 15 VSA Section 1103(c), allowing the court to make "orders as it deems necessary to protect the plaintiff, the children or both", was sufficiently broad to allow the relief from abuse court to prohibit defendants from possessing firearms even if no firearms were used in the alleged incident. Benson acknowledged that federal restrictions govern the defendant's ability to possess firearms but noted that those restrictions do not preempt the state from imposing parallel restrictions.

The Commission concludes that using family members as storage facilities is not best practice and notes that New Hampshire state statutes governing relinquishment and storage of firearms prohibit family members from playing this role. Benson v. Muscari, notes that a majority of domestic violence offenses are committed with firearms. From 1994 - 2008, 58% of Vermont's domestic violence related homicides were committed with firearms and 79% of the suicides related to domestic violence were committed with firearms.

As noted above in the data section, in 2008, 64% of the domestic violence related homicides were committed with firearms. Of the 2008 domestic violence related homicides committed by firearms, 2 responsible parties were prohibited persons under the federal Gun Control Act.

RECOMMENDATION

VERMONT LEGISLATURE

The Commission recommends that the Vermont legislature consider adoption of a law that would govern the relinquishment, inventory, storage and return of guns for defendants subject to final relief from abuse orders.

COMMENT

Based on testimony, the Commission concludes that there is a lack of gun storage capacity by law enforcement in the state which in turn hinders the Court in its

ability to order the defendant's firearms to be relinquished and stored. The common Vermont practice is to specify in the order that relatives of defendant shall hold guns for the defendant which places difficult responsibilities on the relatives and subjects them to potential criminal penalties under the federal Gun Control Act discussed above. Other states have statutes which establish a process for the relinquishment, inventory, storage and return of guns. The Commission reviewed the practices in Massachusetts, New York and New Hampshire.

In 2007, the Vermont Center for Justice Research (VCJR) prepared a study entitled "Alternatives to Current Relinquished Firearms Storage Arrangements in Vermont: A Feasibility Study." The Study profiled the practices in the three states mentioned above and surveyed Vermont law enforcement and judges. This study explored the feasibility of alternative arrangements for storing firearm relinquished by persons subject to Relief From Abuse (RFA) orders in Vermont. It concluded that establishing alternative firearms storage arrangements would alleviate current storage burdens for law enforcement agencies, allow for more consistent law enforcement and judicial responses to RFA defendants with firearms, and reduce concerns about potential access to these firearms by abusers when firearms are relinquished to friends and relatives, as commonly occurs.

Based on the Commission's case reviews it concurs with the VCJR Study's conclusions and encourages the legislature to consider the establishment of a storage system and a statutory procedure for relinquishment, inventory, storage and return of the guns.

RECOMMENDATION

COURT

RELIEF FROM ABUSE COURT HEARING

The Commission recommends that the Vermont courts consider creating a process, such as a preliminary status conference, to differentiate between relief from abuse cases that require an evidentiary hearing and cases that may resolve with a stipulation. This would allow the Court to allocate more time to cases that require fact-finding hearings.

As part of this assessment process, the Commission recommends that the courts refer to risk or danger assessment tools when reviewing the cases in order to be able to identify and weigh all the risk factors posed by each case. The Office of Court Administrator should consider providing judicial education regarding risk/dangerousness/lethality factors in domestic violence cases.

COMMENT

The Commission observed in case reviews that often the focus of court, as demonstrated by the transcripts of the final hearings, is on resolving the pending matter without an evidentiary hearing. Given this perspective, the Court may encourage opposing parties, often pro-se, to negotiate over delicate issues such as child contact and access to firearms. The Commission notes that Relief from Abuse proceedings involve intimate allegations of abuse and violence and are often difficult and emotionally charged court appearances. The Commission concluded that if the courts were able to conduct status conferences before the hearing to determine the issues presented, the courts may be better able to schedule matters for the appropriate amount of court time needed and streamline other matters.

In both cases, the responsible parties exhibited characteristics that would be considered risk/dangerousness/lethality factors (i.e., history of abuse towards partners, making threatening jealous statements, making threats to kill self and/or partner if the partner leaves, isolating controlling behavior towards partner and their interactions with others, following and stalking partner at work and in community, etc.). The Commission encourages the judiciary to familiarize themselves with these factors in order to assess accurately the cases before them. Effectively using danger or risk assessment tools when analyzing the case would also enable the judge to identify all the relevant factors and the risks posed by the defendant.

RECOMMENDATION

LAW ENFORCEMENT

The Commission recommends that a statewide system for tracking the service of protection orders be adopted.

COMMENT

In one case review, there was a delay in service of the order and no documentation of attempts to serve the order. The Commission concludes a statewide system for tracking the service of orders would benefit law enforcement and victims. The system would require the serving agency to log the order in and note the attempts to serve and would provide uniformity and a history of service and attempts to serve.

RECOMMENDATION

LAW ENFORCEMENT

The Commission recommends that Constables be included in county based domestic violence trainings and task force meetings.

COMMENT

In remote Vermont areas and towns, constables often perform many law enforcement functions. In one case review, the town constable served the relief form abuse order and investigated a criminal offense involving the domestic partners. Given the on-going role of the constables, there is a need to coordinate their actions with the local domestic violence programs and other law enforcement entities in the county.

RECOMMENDATION

LAW ENFORCEMENT

The Commission recommends that law enforcement consider using risk or danger assessment tools when responding to intimate partner violence cases in order to assess the dangerousness of the defendant and the victim's need for services.

COMMENT

In one review case, there was no attempt by the responding officer to determine the dangerousness of the defendant's behavior or the victim's need for safety planning or domestic violence services. The Commission notes that The Maryland Network Against Domestic Violence (MNADV) received a federal Byrne grant to provide training and assistance throughout the nation to expand their Lethality Assessment Program (LAP). The Maryland Network Against Domestic Violence (MNADV) developed a program over a two year-period from 2003 to 2005 called the Lethality Assessment Program for First Responders, a one-of-a-kind program designed to identify victims of domestic violence at the greatest risk of being killed and getting them out of harm's way and into domestic violence services. It uses a first responder screening instrument based on research and a proactive protocol whereby the officer/deputy on the scene uses the telephone to connect the victim to a hotline worker. The LAP was recognized by Harvard University as a Top 50 Program for 2008. Since January 2006, deputies and officers have identified over 5,600 "High Danger" victims, gotten over 3,100 of them on the phone with a hotline worker, and nearly 900 of them have gone into domestic violence services. The Commission encourages Vermont law enforcement and local domestic violence programs to work together and consider applying for the Maryland training provided above. The Commission does note that a number of Vermont domestic violence programs, agencies and Commission members participated in a phone conference in December of 2008 about the possibility of applying for these trainings.

RESPONSES TO PREVIOUS RECOMMENDATIONS

The Commission made previous recommendations based on earlier case reviews. These prior recommendations were published in the Commissions Reports and were presented to the respective agencies and organizations by Commission members. Below the Commission is reporting on the recommendations that have been adopted and the recommendations that are still being considered. The Commission is gratified that its work is having a positive and tangible impact in Vermont.

SUCCESS

COMMUNITY BYSTANDER EDUCATION PROGRAM

RECOMMENDATION

- A public awareness and education prevention campaign should be implemented which will help community members become more sensitive to issues of domestic violence and teach Vermonters how to intervene and assist. The campaign should take a broad community approach and teach all community members how they can become pro-social bystanders and participate in community change. The campaign should also include schools and males as a focus. The Commission encourages the Governor's Council on Domestic Violence, the Vermont Network Against Domestic and Sexual Violence and the local Domestic Violence Task Forces to join with universities, schools, and civic groups such as the White Ribbon Campaign (discussed below) to implement this community education and awareness campaign. Finally, the Commission recommends that the State consider funding this statewide preventative campaign.

RESPONSE

As noted above in the 2008 re-cap, on June 9, 2008, the Commission along with the Vermont Domestic Violence Council held a statewide conference that highlighted the work of the Commission and specifically addressed a 2007 recommendation regarding bystander and witnessing issues. The Conference entitled "Before It's Too Late: Taking Action to Prevent Domestic Violence Homicides in Vermont Communities" was held in Killington and had 240 attendees. The attendees included: law enforcement, court staff, advocates, domestic violence task forces, health care providers, Corrections personnel, teachers, counselors, attorneys, prosecutors, supervised visitation staff, and health care professionals.

At the conference, three national presenters provided an overview of domestic and sexual violence fatalities and distributed materials on how to implement a bystander education and public awareness campaign. The attendees received a Bystander Tool Kit as part of the Conference Materials to assist them in implementing a public awareness campaign in their local community regarding domestic and sexual violence and stalking. The local domestic violence task forces were seated together at the conference and encouraged to plan a local event for October 2009 Domestic Violence Awareness Month based on the Tool Kit materials they received.

DOMESTIC VIOLENCE TASK FORCES

RECOMMENDATION

- Local domestic violence task forces should consider convening community forums to discuss issues of violence in their community and to strategize how to create a wider and more accessible safety net for all. The forums should include a wide base of community partners such as: schools, medical community, domestic violence advocates, child advocates, law enforcement, prosecutors, defense attorneys, private attorneys, corrections, child protection agencies, child care providers, universities and colleges, municipal employees, legislators, judges, court employees, business owners, chambers of commerce, etc.

RESPONSE

The Commission hopes that the June 9, 2008 Conference in Killington assisted local domestic violence task forces in accomplishing this goal. The attendees received tool kits that will assist them in engaging with their local communities.

WORK IN PROGRESS

VERMONT EMPLOYERS

RECOMMENDATION

- The Commission encourages all Vermont employers to review their existing workplace and domestic violence policies and to consider adopting policies if none exist and train all employees.

RESPONSE

Drawing on the new collaborative Protocol between the Commission and the Vermont Council on Domestic Violence, both entities have devised a plan to

implement this recommendation. A multi-disciplinary work group was convened and the group met throughout 2008. The group intends to draw on the work already accomplished by the Vermont Attorney General's Office Domestic Violence and the Workplace Initiative, the Agency of Human Services Domestic Violence Initiative as well as the City of Burlington's domestic violence training and workplace policy work. The group is focusing on the following areas: employer education and policies, collection of Vermont data, and workplace legal protections.

The work group hopes to accomplish the following goals:

- Create an employer education packet which includes model policies and information about available training resources.
- Distribute the packet to private and public employers, businesses, regional organizations including Chamber of Commerce, regional development councils, Domestic Violence Task Forces, and other business groups.
- Replicate in Vermont a study conducted in Maine that researches the perpetrator's harassment of victims at work. The Maine Department of Labor and Family Crisis Services did the study in 2006. It found that nearly eight in ten domestic violence perpetrators use their employer's resources - cars, telephones or cellular phones - to intimidate their victims. The study also addressed absenteeism and recommended that employers establish a comprehensive DV policy in the workplace. The Maine Study can be found at: www.familycrisis.org/impact2004.pdf
- Review other states' laws regarding employment protections and antidiscrimination statutes for victims of domestic and sexual violence. Consider recommending Vermont laws to protect victims of domestic violence in the workplace.

With respect to all these goals the work group has: gathered policies and best practices; contacted batterer intervention programs who have agreed to conduct the survey; conferred with the researchers involved in the Maine study; reviewed the current protections in Vermont law; and consulted with the American Bar Association regarding other state laws that protect domestic and sexual violence victims in the workplace.

The Commission notes that the Vermont Campaign for Livable Wage Vermont Livable Wage Campaign - www.vtlivablewage.org/ proposed Vermont legislation modeled on the City of Milwaukee's recent paid sick and safe days initiative <http://www.jsonline.com/news/statepolitics/33874059.html> which would allow for paid sick days which could be used for issues relating to domestic and sexual violence. Under the measure, a full-time worker would earn a minimum of one hour of paid sick time for every 30 hours worked, or nine days a year. Businesses

with 10 or fewer employees would be required to provide five days a year of paid sick time to full-time employees. The paid leave could be taken for illness or medical care for the employee or the employee's child, parent or other relative. The time could also be used to attend to medical and legal issues resulting from domestic violence, sexual assault or stalking.

Voices for Vermont's children formed a Paid Sick Days Coalition and will be leading the effort to pass this legislation in this biennium. The Coalition has several studies and surveys of the paid sick days issue in progress. They are meeting with business groups, including the state's chamber of commerce. Other coalition members include the unions for nurses and state college employees.

COURTS

RECOMMENDATION

- Regarding the Relief from Abuse Process in Vermont, the Office of Court Administrator should provide judges and clerks training regarding firearms and relief from abuse orders and the federal Gun Control Act.

RESPONSE

The Commission Chair and the Council Coordinator met with the Judicial Caucus of the Council on Domestic Violence to discuss the Commission recommendations regarding training for judges regarding federal firearm laws. The topic was suggested as a possible judicial college training topic at their annual training in 2009. The Judicial Caucus recommended that the Commission and Council consider writing a Vermont Bar article on the topic for publication and distribution in order to train practicing attorneys and judges.

COURTS AND PROSECUTORS

ARREST WARRANT RECOMMENDATIONS

- Courts and prosecutors should create a process to expedite arrest warrant issuance in domestic violence cases.
- Once arrest warrants are issued, courts and/or prosecutors should notify arresting officer(s) and victim(s) of the issuance of the arrest warrants.

RESPONSE

The recommendation was distributed to the Office of the Court Administrator and the State's Attorneys' Association. The chair of the Fatality Review Commission

met with an administrator from the Courts and discussed the implementation of this recommendation. The Chair of the Commission and the Court Administrator's office are working together to draft a protocol to improve communication between all the interested parties regarding the issuance and service of domestic violence warrants. The goal of the protocol is to prevent bureaucratic errors that could result in escalating the lethality in interpersonal violence cases.

LAW ENFORCEMENT

ARREST WARRANT RECOMMENDATIONS

- Arrest warrant lists should be made available to police officers prioritized with violent offense and domestic violence offense arrest warrants at the top and federal arrest warrants should be included in the lists for crossreference.
- Law enforcement should adopt a county-based system that provides all police agencies within the county monthly arrest warrant list updates that reflect both the issuing court and the county of the defendant's residence.
- Law enforcement agencies should establish a policy that encourages officers to look for persons on arrest warrant lists on a periodic basis.
- Dispatchers should run a more in-depth search, such as an F2 super query, in all cases when running a motor vehicle license information request from law enforcement.

RESPONSE

The Commission's Department of Public Safety representative has been working to implement these recommendations with the dispatchers and those in law enforcement that maintain the arrest warrant lists.

LAW ENFORCEMENT AND DOMESTIC VIOLENCE PROGRAMS

RECOMMENDATIONS

- Police Departments should adopt a Domestic and Sexual Violence protocol designed with their local Network program which includes effective follow-up policies for domestic violence cases when a defendant has not been apprehended or evades service. The protocols should be updated annually.
- Domestic violence programs and local law enforcement agencies should work to develop a professional relationship that supports communication and

discussion around particular issues of concern. Opportunities should be considered for regular regional meetings and cross training on issues related to domestic violence, including how to make referrals to domestic violence programs.

RESPONSE

The Network Against Domestic and Sexual Violence has begun to investigate which Programs have current protocols with their local law enforcement agency. The Network's goal is to create a domestic violence protocol template and distribute that to Programs who do not have existing protocols.

FAMILY COURT

RECOMMENDATION

- Vermont statutes should be amended to ensure that Guardianship and Custody cases for children fall under the jurisdiction of the Family Court rather than Probate Court.

COMMENT AND RESPONSE

The Commission concluded that in fatalities that result in the custody of children being in question, the best practice would be for these matters to be heard by Family Court where services would be available to the children. The Representative from the Governor's Council on Domestic Violence discussed this recommendation with a county Probate Judge. The recommendation was favorably received. The recommendation was also presented to and discussed by the Department for Children and Families and the Court Administrator's Office. Although the response was supportive, because the recommendation will require legislative action, further steps need to be taken. The Chair of the Commission presented this recommendation to the Senate Judiciary Committee for their consideration in February of 2007. The Commission recommends that the Legislature consider this revision within the context of S. 13 the pending Sexual Assault Prevention Omnibus Bill.

EMERGENCY SERVICES

RECOMMENDATION

- Establishment of an enhanced cell phone locator identification system should be made available statewide.

RESPONSE

The Commission will continue to work on the adoption of this system with the Emergency Services personnel. Future and current technology advances and changes will affect the implementation of this system. The Emergency service system is in the process of updating its identification system.

COMMUNITY RESOURCES

RECOMMENDATION

- Countywide financial support services for victims of domestic abuse (e.g., childcare, emergency funds, transportation, food, jobs, education, housing, health care, etc.) should be created. The domestic violence programs and the local domestic violence task forces should work together to address immediate economic issues for victims and their families.

COMMENT AND RESPONSE

The Commission notes that in many review cases economic issues appeared to restrict the choices of the victims. The Commission encourages local advocates to collaborate on ways to get real dollars and resources in the hands of folks who need immediate assistance to establish safety.

The Commission is encouraged by the work of the Economic Justice Coordinator at the Vermont Network Against Domestic and Sexual Violence and we look forward to continuing to collaborate on these critical issues. The Commission was also encouraged by the allocation of financial resources to the Vermont Network in the Omnibus Domestic Violence Bill (S. 357) passed last legislative session which provided economic supports for victims. The Commission acknowledges the difficult economic times that Vermont is facing currently, but recommends that the legislature restore this critical funding to the Network.

CONCLUSION

Vermont's Domestic Violence Fatality Review Commission is heartened by the steps taken in response to our recommendations and looks forward to continuing our work. Many agencies, non-profit organizations and individuals have engaged in substantial work to improve the community-based response to domestic violence. The goal of the Commission is to act as a catalyst for efforts to improve Vermont's communities and together to prevent future incidents of domestic violence related fatalities. We thank all of our partners for their conscientious

efforts. The Commission looks forward to continuing this critical work together to improve the safety and well being of all Vermonters.

APPENDIX A

NO. 88. AN ACT RELATING TO THE DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION. (H.728)

It is hereby enacted by the General Assembly of the State of Vermont:
Sec. 1. 15 V.S.A. chapter 21, subchapter 2 is added to read:

Subchapter 2. Domestic Violence Fatality Reviews

§ 1140. DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION

(a) The domestic violence fatality review commission is established within the office of the attorney general, in consultation with the council on domestic violence, for the following purposes:

(1) To examine the trends and patterns of domestic violence-related fatalities in Vermont.

(2) To identify barriers to safety, the strengths and weaknesses in communities and systemic responses to domestic violence.

(3) To educate the public, service providers and policymakers about domestic violence fatalities and strategies for intervention and prevention.

(4) To recommend policies, practices and services that will encourage collaboration and reduce fatalities due to domestic violence.

(b) The commission shall be comprised of 15 members, consisting of the following:

(1) the attorney general, or his or her designee;

(2) the commissioner of the department of health, or his or her designee;

(3) the commissioner of social and rehabilitation services, or his or her designee;

(4) the commissioner of the department of corrections, or his or her designee;

(5) the commissioner of the department of public safety, or his or her designee;

(6) the chief medical examiner, or his or her designee;

(7) a state's attorney with experience prosecuting domestic violence cases, appointed by the executive director of the Vermont state's attorneys' association;

(8) the defender general, or his or her designee;

(9) a member of the Vermont coalition of batterer intervention services;

(10) a member of the Vermont network against domestic violence and sexual assault;

(11) a representative of the Vermont council on domestic violence;

(12) a representative of local law enforcement, appointed by the governor;

(13) a victim or survivor of domestic violence, appointed by the Vermont network against domestic violence and sexual assault;

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(14) a physician, appointed by the governor; and

(15) the executive director of the Vermont criminal justice training council, or his or her designee.

(c) In any case subject to review by the commission, upon written request of the commission, a person who possesses information or records that are necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records upon request of the commission is not criminally or civilly liable for providing information or records in compliance with this section. The commission shall review fatalities which are not under investigation and fatalities in cases that are post adjudication which have received a final judgment.

(d) The proceedings and records of the commission are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commission shall disclose conclusions and recommendations upon request, but may not disclose information, records or data that are otherwise confidential, such as autopsy records. The commission shall not use the information, records or data for purposes other than those designated by subsections (a) and (g) of this section.

(e) The commission is authorized to require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(f) Commission meetings are confidential, and shall be exempt from chapter 5, subchapter 2 of Title 1 (open meetings law). Commission records are confidential, and shall be exempt from chapter 5, subchapter 3 of Title 1 (public access to records).

(g) The commission shall report its findings and recommendations to the governor, the general assembly, the chief justice of the Vermont supreme court, and the Vermont council on domestic violence no later than the third Tuesday in January of the first year of the biennial session. The report shall be available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage, and shall terminate upon termination of grant funding, administered by the Vermont center for crime victim services, from the Violence Against Women office of the United States Department of Justice for an assistant attorney general assigned to the criminal division and designated as a domestic violence coordinator.

Approved: May 2, 2002

APPENDIX B - COMMISSION DEFINITION OF DOMESTIC VIOLENCE RELATED FATALITY

When determining whether a fatality is domestic violence related for data collection and/or full case review, the Executive Committee and the full Commission may consider the following criteria.

Whether:

- a. the alleged perpetrator was related to the victim as a "family member" according to the "plain and commonly accepted meaning" of the term. Donley v. Donley 165 Vt. 619 (1996);
- b. the alleged perpetrator and victim qualify as having a reciprocal beneficiaries relationship as defined at 15 VSA Section 1303¹⁴ and as noted as "family" in the Abuse Prevention statute at 15 VSA Sec 1101(6)¹⁵;
- c. the alleged perpetrator and victim were related as "household members" under the Abuse Prevention Act at 15 VSA Sec 1101(2)¹⁶;
- d. the alleged perpetrator killed an estranged partner's current "household member"¹⁷;
- e. the alleged perpetrator killed a current partner's estranged "household member"¹⁸;
- f. the alleged perpetrator killed a family member's current or estranged "household member";¹⁰
- g. the alleged perpetrator killed bystander(s) while attempting to harm family or "household members";

¹⁴ For a reciprocal beneficiaries relationship to be established in Vermont, it shall be necessary that the parties satisfy all of the following criteria: (1) be at least 18 years of age and competent to enter into a contract; (2) Not be a party to another reciprocal beneficiaries relationship, a civil union or marriage; (3) Be related by blood or by adoption and prohibited from establishing a civil union or marriage with the other party to the proposed reciprocal beneficiaries relationship; (4) Consent to the reciprocal beneficiaries relationship without force, fraud or duress. 15 VSA Sec. 1303

¹⁵ "Family" shall include a reciprocal beneficiary. 15 VSA 1101 (6)

¹⁶ "Household members" means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. "Dating" means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists or existed include: (a) the nature of the relationship; (b) the length of time the relationship existed; (c) the frequency of interaction between the parties; (d) the length of time since the relationship was terminated, if applicable. 15 VSA 1101 (2)

¹⁷ See footnote 3 for definition of "household member"

¹⁸ See Footnote 3 for definition of "household member"

¹⁰ See Footnote 3 for definition of "household member"

- h. the alleged perpetrator is a law enforcement officer forced to kill in the line of duty when responding to a domestic violence incident;
- i. a law enforcement officer is killed in the line of duty when responding to a domestic violence incident;
- j. the fatality is domestic violence related but is ruled a justifiable homicide;
- k. the fatality is a murder-suicide matter involving family or household members;
- l. the fatality is a suicide where there is documented history of domestic violence to include victim suicide; alleged perpetrator suicide (as violent act in front of family or household members); alleged perpetrator suicide by law enforcement and teen suicide;
- m. the fatality is a substance abuse related death (chronic abuse, suicide, overdose) that is related to domestic violence.

APPENDIX C - DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION MEMBERS

Pursuant to 15 VSA Sec. 1140(b), the Commission is comprised of 15 members, consisting of the following:

- The Attorney General, or his or her designee;

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- The Commissioner of the Department of Health, or his or her designee;

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As of January 2009:
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- The Commissioner of Department for Children and Families, or his or her designee;

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- The Commissioner of the Department of Corrections, or his or her designee;

Susan Onderwyzer LICSW BCD LADC
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- The Commissioner of the Department of Public Safety, or his or her designee;

Captain Edward J. Ledo
Chief Criminal Investigator - BCI
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- The Chief Medical Examiner, or his or her designee;

Dr. Steve Shapiro
Office of Medical Examiner
Department of Health
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- A State's Attorney with experience prosecuting domestic violence cases, appointed by the Executive Director of the Vermont State's Attorneys' Association;

Rosemary Gretkowski
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- The Defender General, or his or her designee;

Matthew Valerio
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Defender General's Office
6 Baldwin Street, 4th Floor
Montpelier, VT 05620-3301
802-828-3168 phone 802-828-3163
fax
bob.sheil@state.vt.us

- A member of the Vermont Coalition of Batterer Intervention Services;

Mark Larson
Vermont Coalition of Batterer Intervention Services
64 Temple Street
Burlington, VT 05401
862-7596 phone
marklvt@verizon.net

- A member of the Vermont Network Against Domestic and Sexual Violence;

Sarah Kenney
Public Policy Coordinator
The Vermont Network Against Domestic and Sexual Violence
PO Box 405
Montpelier, VT 05601
802-223-1302 phone 802-223-
6943 fax
sarahk@vtnetwork.org

Alternate:

Jill Richard
Economic Services Coordinator
The Vermont Network Against Domestic and Sexual Violence

PO Box 405
Montpelier, VT 05601
802-223-1302 phone
802-223-6943 fax
jill@vtnetwork.org

- A representative of the Vermont Council on Domestic Violence;

Heather Holter
Coordinator
Vermont Council on Domestic Violence
Montpelier, Vermont
heather_holter@tds.net

- A representative of local law enforcement, appointed by the Governor;

W. Samuel Hill, Sheriff
Washington County Sheriff's Department
10 Elm Street
Montpelier, Vt 05602 802-223-
3001 phone
shill@dps.state.vt.us

- A victim or survivor of domestic violence, appointed by the Vermont Network Against Domestic and Sexual Violence;

Susan Hardin
P.O. Box 328 Chelsea,
VT 05038
susanhardin@charter.net

- A physician, appointed by the Governor;

As of January 2009:
Dr. Gail Yanowitch
Associates on Gynecology and Obstetrics
Berlin, Vermont 05602

- The Executive Director of the Vermont Criminal Justice Training Council, or his or her designee.


TJ Anderson
Training and Curriculum Coordinator

Vermont Criminal Justice Training Council
 Vermont Police Academy
 317 Academy Road
 Pittsford, VT 05763-9712
 483-6228 ext 13 phone
 483-2343 fax
 tj.anderson@state.vt.us

**APPENDIX D: COMMISSION CASE
 REFERRAL FORM**

DOMESTIC VIOLENCE FATALITY REFERRAL FORM

OFFICIAL USE

	Domestic Violence Fatality Review Commission	ONLY Office of the Attorney General -
	Criminal Division Received By 109 State Street - Montpelier, VT 05609	

INSTRUCTIONS

Please answer the questions below as completely as possible to assist the Commission in determining whether we are able to review this death. Please note that you can refer this case to the Commission but, by statute, we cannot review a case until the court proceedings are over and the investigation is closed. In the meantime, we can include the case for statistical purposes. But depending upon the legal status of your referred case there may be a significant delay before the Commission could consider it for review.

Additionally, if you need assistance completing this form or would like to communicate the information in a different manner please call the Office of Attorney General, Criminal Division, at (802) 828-5512. This form is also available on the Office of Attorney General's web page at <http://www.state.vt.us/ota/>

PLEASE PRINT ALL INFORMATION

Name of Victim (including aliases)		Name of Parent/Guardian (if under 18)	
Date of Birth (or approximate age)		Date of Death	Town/City where death occurred
Address of Victim (if known)	Street	City	State
Describe how death occurred including any history of domestic violence or abuse (please note that the abuse does not have to be documented through official sources such as the police or courts):			
Person you believe is responsible for this death (including aliases)			
Date of Birth or approximate age of person you believe is responsible		Relationship of the victim to the person you believe is responsible	
Other people having information about this death: (use another sheet if necessary)			
Name	Address	Phone	
Name	Address	Phone	
Was this death investigated and if so by whom:			
A short explanation why you want the death reviewed (use additional pages if necessary.)			
The Commission welcomes any other information you may wish to provide which would help us understand the history and circumstances of the fatality. Anonymous referrals can be made as long as there is sufficient information to be able to identify the fatality; however, if possible, contact information for the person making the			
			x

Name

Address

Town/City

State

Contact Phone 1

Contact Phone 2

Send completed forms to: Office of Attorney General, 109 State Street, Montpelier, VT 05609 ATT: Criminal Division/Domestic Violence Fatality Review Commission



STATE OF VERMONT OFFICE OF THE ATTORNEY GENERAL
DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION

The Domestic Violence Fatality (Death) Review Commission is established in the Office of Attorney General in consultation with the Council on Domestic Violence under 15 VSA Sec. 1140.

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

All proceedings and records of the Commission are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. Records include oral and written communications.

The Commission shall report its findings and recommendations in a public report. The Report shall contain general statistical data regarding deaths as well as findings and recommendations related to case reviews but will not contain case specific information. The report shall examine general trends and patterns with the goal of reducing domestic violence related deaths.

Questions or comments concerning the Commission can be directed to:

Office of the Attorney General
Criminal Division
109 State Street
Montpelier, Vermont, 05609.
Telephone (802) 828-5512

On the Web - <http://www.state.vt.us/atg/>

APPENDIX E

2007 PROTOCOL BETWEEN COUNCIL AND THE DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION

Pursuant to H. 278, the Domestic Violence Fatality Review Commission was established in May of 2002 within the Office of the Attorney General, in consultation with the Council on Domestic Violence, for the following purposes:

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

See, Sec. 1. 15 VSA chapter 21, subchapter 2.

The Statute as enacted does not define the term “in consultation with the Council on Domestic Violence”.

The Council on Domestic Violence (Council) provides statewide leadership on the multidisciplinary response to domestic violence. In an effort to promote statewide coordination of advocacy and education, the Council and the Commission will work in consultation with each other.

The following is the agreement adopted by the Council and the Domestic Violence Fatality Review Commission (Commission).

1. The Council will appoint a Council Representative to the Commission (the Council Representative).
2. The Council Representative will serve as a member of the Executive Committee of the Commission.

3. The Council Representative will be authorized by the Council to represent the Council's position on any aspect of the Commission's work.
4. The Council Representative will report to and obtain guidance from the Council related to the ongoing work of the Commission. This discussion may, but will not be required to, include providing drafts of Commission reports to the Council, information regarding the collection of statistical data and general information regarding the review of individual cases.
5. The Council Representative is subject to the signed Commission Member confidentiality agreement and cannot report confidential information to the Council.
6. The Council Representative to the Commission will draw on the collective expertise of the Council to help the Commission draft its recommendations and conclusions.
7. Prior to endorsing a Commission recommendation that refers specifically to an individual member of the Council or an agency represented by a Council member, the Council Representative will review it with the relevant Council member(s). That review may include: the likely impact of the recommendation, the feasibility of its implementation and any potential consequences that may not have been foreseen by the Commission.
8. The Council will work with the Commission to develop strategies to implement Commission recommendations from the annual reports. The Council will oversee relevant implementation plans and will report regularly to the Commission on progress towards and/or barriers to implementing Commission recommendations.
9. The Council and the Commission agree to resolve any differences respectfully and promptly by way of the Council Co-Chairs and the Office of the Attorney General.