

STATE OF VERMONT
DOMESTIC VIOLENCE
FATALITY REVIEW COMMISSION
BIENNIAL REPORT



JANUARY 2005

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DEDICATION

This report is dedicated to all the family members who have referred cases to the Commission and have testified before the Commission regarding the death of their loved ones. The Commission is indebted to them for their courage and wisdom as to how to prevent these tragedies.

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 as to prevention. 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 a fatality occurred and what Vermont can do to prevent these tragedies.

This is the Third Commission Report. In January of 2003 the Commission issued its first Biennial Report and in January of 2004 the Commission issued a Statistical Report outlining data from 1994 - 2003. This Report discusses the fatalities from 2004 and updates the data in the Statistical Report. The Report also summarizes the case reviews conducted in 2004 and presents recommendations based on those reviews.

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;
- to identify barriers to safety, the strengths and weaknesses in communities, and systemic responses to domestic violence;
- to educate the public, service providers and policymakers about domestic violence fatalities and strategies for intervention and prevention; and
- to 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 Services¹², 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;

¹² Now known as Department for Children and Families (DCF) and Department for Children and Families, Family Services Division (FSD).

- 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 Violence and Sexual Assault;
- 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 Violence and Sexual Assault;
- 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 2004

In January of 2004, the Commission issued a Statistical Report summarizing domestic violence related fatality data from 1994-2004. 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. The statute allows the Commission to issue data and other information periodically. The 2004 Statistical Report reflects the data and information that the Commission had collected in 2003. This Report incorporates the data through 2004 and also presents the Commission's recommendations regarding the two case reviews it completed during the past year.

Since the Commission's Statistical Report of January 2004, the Commission met bi-monthly and the Executive Committee met monthly. In addition the Commission added meetings when it conducted case reviews to accommodate witnesses.

Domestic violence related fatalities constitute slightly more than half of all homicides in Vermont from 1994 -2004. According to Commission data, 52% of all homicides during the past ten years are domestic violence related. In addition when the data incorporates suicides that followed domestic violence related homicides (i.e. murder/suicides) the percentage increases to 64%. Fifty-six (56%) percent of the domestic violence related homicides are committed with firearms and 81% of the suicides associated with the homicides (i.e. murder/suicides) are committed with firearms.

In 2004, while there was a decline in the overall number of homicides, 40% of those cases were domestic violence related fatalities. In 2004, there were 10 homicides and 4 were domestic violence related as defined by the Commission.¹³

¹³ See Appendix B for the Commission definition of Domestic Violence Related Fatality.

In one domestic violence related homicide, the responsible party committed suicide increasing the number of domestic violence related fatalities to 50%.

Domestic violence remains a tragic and serious public safety and health issue in Vermont and across the nation. The Commission is dedicated to playing an integral role in the coordinated community response to domestic violence with the hope of reducing fatalities and improving Vermont's strategies for intervention and prevention.

The Commission invites all Vermonters to review this report and specifically our recommendations and provide us with comments and suggestions as we continue to study the trends and patterns of domestic violence related fatalities. The Commission also encourages the public to refer cases for the Commission's review. A case referral form is attached as Appendix E.

SUMMARY OF 2004 DATA

Total Homicides - 10		Relationship	
Domestic Violence Related	4	Partner	3
Female victims	3	Ex-Partner	1
Male Victims	1	Family Member	0
Responsible Party		Household Member	0
Female	1	Domestic Violence Related	0
Male	2		
County Distribution			
Addison	0	Lamoille	1
Bennington	0	Orange	1
Caledonia	0	Orleans	0
Chittenden	1	Rutland	0
Essex	0	Washington	0
Franklin	0	Windham	1
Grand Isle	0	Windsor	0
Crime			
Firearm	0	Stabbing	0
Fire	0	Blunt Trauma	3
Strangulation	1	Motor Vehicle	0
Other	0		
Children Present			
Number or crime scenes			2
Number of children present at crime scenes			
There were two children at the first crime scene and one child at the second crime scene for a total of 3.			
Domestic Violence Related			40%
Domestic Violence related including the one murder/suicide			50%

HOMICIDE AND DOMESTIC VIOLENCE RELATED FATALITIES CHART 1994-2004

Year	Total # Homicides	Partner	Ex-Partner	Family Member	Household Member	DV Related	Total # DV	Total % DV
2004	10 ³	3	1	0	0	0	4	40
2003	15 ⁴	1	2	3	1	2	9	59.9
2002	10 ⁵	1	0	0	0	0	1	10
2001	13 ⁶	0	0	3	1	1	5	38
2000	16 ⁷	3	1	2	0	2	8	50
1999	18 ⁸	2	1	3	2	2	10	56
1998	12 ⁹	3	2	1	0	1	7	58
1997	11 ¹⁰	2	1	2	0	2	7	64
1996	12 ¹¹	1	2	2	1	2	8	67
1995	13 ¹²	6	0	0	0	1	7	54
1994	7 ¹³	1	1	1	0	2	5	71
TOTAL	137	23	11	17	5	15	71	52

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

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.

⁴ 2 cases remain under investigation and are 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 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.

⁷ In addition to these 16 cases, 1 responsible party committed suicide following the homicide.

⁸ In addition to these 18 cases, 2 responsible parties committed suicide following the homicides. Also, 1 case remains under investigation and is reflected in the total number of homicides but the Commission is not able to determine if it is domestic violence related fatality at this time. The data will be up-dated when that information is available.

⁹ In addition to these 12 cases, 3 responsible parties committed suicide following the homicides.

¹⁰ In addition to these 11 cases, 2 responsible parties committed suicide following the homicides.

¹¹ 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.

¹² 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.

¹³ In addition to these 7 cases, 1 responsible party committed suicide after the homicide.

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)

DV Related – Homicide where the responsible party and the victim fit none of the above relation-ships 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)

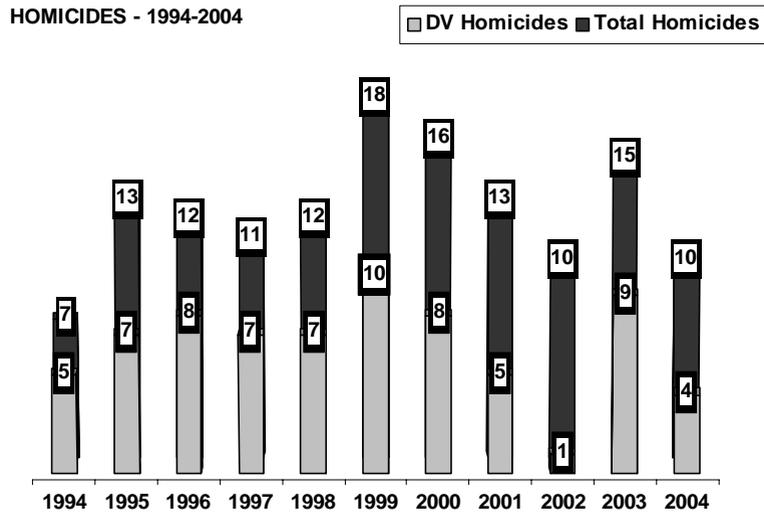
Responsible Party – The responsible party is the person who the fatality can be attributed to. It is a broader term than defendant or perpetrator. For example, it may include a convicted defendant, a battered spouse who was not charged with the fatality due to self-defense, a police officer responding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

SUMMARY OF DATA FROM 1994 – 2004

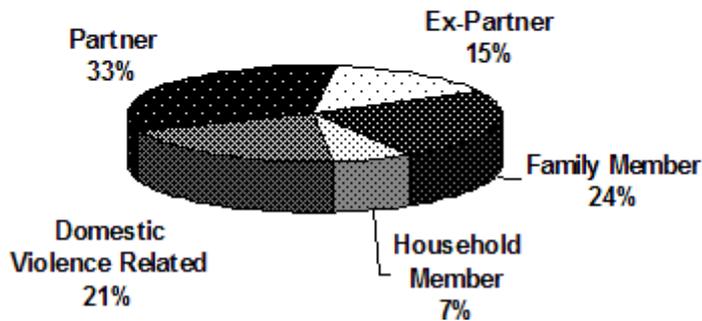
Homicides	Total	137		
Domestic Violence Fatalities	Total	71 or 52 %		
	• Female victims	40		
	• Male Victims	31		
	Responsible Party			
	• Female	12		
	• Male	59		
Relationship	Partner	23		
	Ex Partner	11		
	Family Member	17		
	Household Member	5		
	Domestic violence related	15		
County Distribution	Addison	9	Lamoille	3
	Bennington	3	Orange	4
	Caledonia	6	Orleans	4
	Chittenden	13	Rutland	12
	Essex	0	Washington	4
	Franklin	3	Windham	4
	Grand Isle	0	Windsor	6
Manner	Firearm	40		
	Stabbing	9		
	Fire	2		
	Blunt trauma	11		
	Strangulation	4		
	Motor Vehicle	1		
	Other	4		
Children Present	At crime scene	16		
	Aware of crime scene immediately before or after the fact	6		
Law Enforcement Related Cases	2 (2 cases where domestic violence suspects were killed by law enforcement)			
Suicides related to domestic violence	17 ¹⁴			
	• Female	1		
	• Male	16		
Manner	Firearm	13		
	Stabbing	1		
	Hanging	1		
	Asphyxia by Fire	1		
	Asphyxia by Carbon Monoxide	1		

¹⁴ When these suicide figures are combined with the domestic violence related homicide numbers for 1994 – 2004, the percentage of homicides that are domestic violence related is 64%.

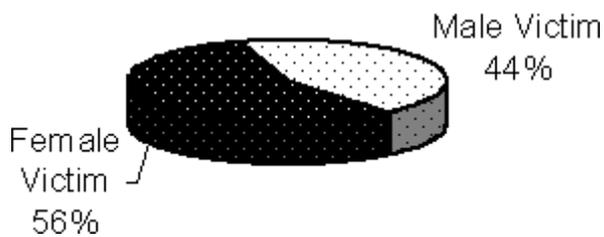
DOMESTIC VIOLENCE RELATED HOMICIDE CHARTS FOR 1994-2004



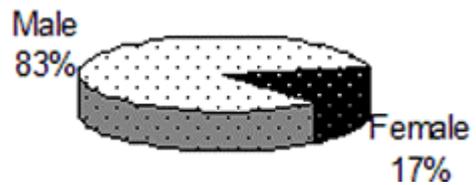
Homicides, 1994-2004
Domestic Violence Related
Relationship of Victim to Responsible Party



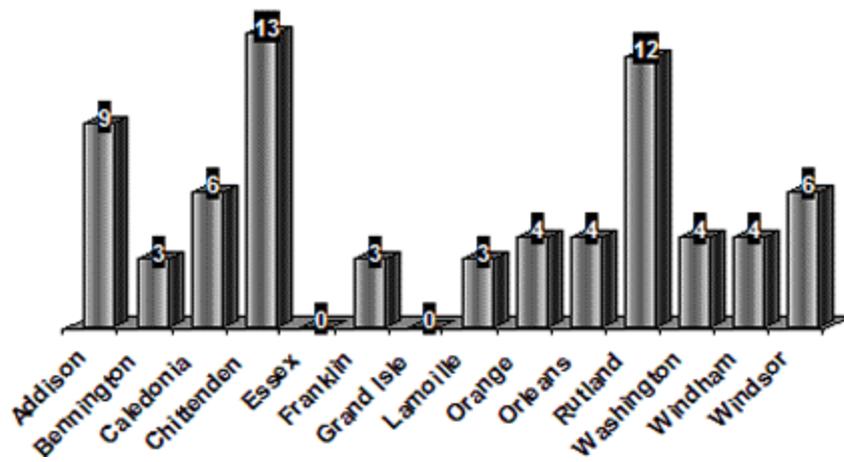
Homicides - 1994-2004
Domestic Violence Related
Gender of Victim



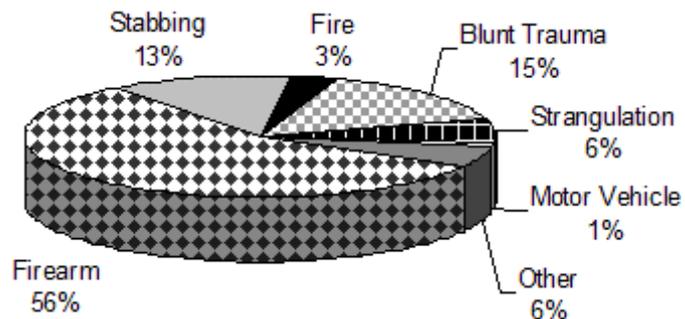
Homicides - 1994-2004
Domestic Violence Related
Gender of Responsible Party



Homicides - 1994-2004
Domestic Violence Related
By County



Homicides 1994-2004
Domestic Violence Related
Method



SUMMARY OF CASE REVIEWS CONDUCTED IN 2004

During 2004, the Vermont Domestic Violence Fatality Review Commission completed in-depth reviews of two fatalities. In the reviews, we heard from a variety of witnesses including surviving family members and social service, law enforcement 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 manners of death were homicide and suicide. The two decedents were female and the perpetrator of the homicide was male.

In both cases, criminal charges were pending in which the decedents were the alleged victims of assaults by their spouses. One decedent had applied for a relief from abuse order but failed to attend the hearing and the second decedent did not file for a relief from abuse order. In one case, the spouse was on probation for a previous assault on his wife and was attending batterer's intervention programming. The Commission was unable to ascertain if the decedents or the responsible party were attending mental health counseling. In both matters the Commission heard testimony of extensive histories of abusive behavior by the spouses directed at their wives. Some of these incidents were reported to police and others were not.

In both matters children were present in the residences at the time of the deaths. In one case, the children witnessed prior domestic violence assaults and had contacted the police and family members to report the abuse.

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.

- **Schools**

- In both cases, the schools where the affected children attended were very proactive in providing appropriate support services to the children and the surviving family members.

- **Government Agencies**

- In terms of government agency responses, we note that in one matter, the local child protection office was very supportive and helpful in providing immediate financial and support services to the children affected and the other surviving family members. In another matter, we applaud the Department of Corrections employee who showed dedication and professionalism in providing hands-on supervision to the probationer while also providing support services to the affected family members.

- **Law Enforcement**

- Regarding law enforcement, we note that the response to both crime scenes was professional and timely. The Commission also wants to commend the diligent efforts of the multi-disciplinary team that created the 2004 protocol addressing children at the scene of a domestic violence incident.¹⁵ Trainings are occurring currently to implement these best practices. The Commission notes that the protocol would have been a useful tool in the cases we reviewed as children were present at both fatalities.

COMBINED RECOMMENDATIONS

The Commission makes the following recommendations reflecting issues common to both cases. We have identified 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 does 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 is to increase the safety of all Vermonters.

- **Courts and Prosecutors**

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.

¹⁵ The protocol is entitled: Vermont Model Protocol: Law Enforcement Response to Children at the Scene of a Domestic Violence Incident. Developed by: Vermont Criminal Justice Training Council (TJ Anderson at 802-483-6228), The Vermont Network Against Domestic and Sexual Violence (Amy Torchia at 802-223-1302) and the Vermont Department for Children and Families (Sara Nash at 802-388-5395 and Ellie Breitmaier at 802-241-2131). Copies of the Protocol can be obtained from any of the individuals listed above.

Comment: During our reviews, weaknesses in the timeliness and effectiveness of the state arrest warrant processes were identified. Additional recommendations based on these findings can also be found in the law enforcement section below.

- **Courts**

Recommendations:

- Judges should receive training regarding potential dangers to an alleged victim of domestic violence and her children. Such training should include, information from domestic violence advocates, child advocates, batterer's intervention programs and mental health professionals who can address the dangers of contact between a victim and the victim's alleged batterer once legal protection has commenced. The training should address issues of conditions of release and contact between the defendant and the family.
- Pre-sentence investigation reports should not be waived in homicides and particularly not in domestic violence related fatalities.

Comment: In both reviews, the Commission identified a need for additional judicial training on domestic violence issues and the need for judges to be provided more information before imposing a sentence in a domestic violence related fatality.

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: The Commission concluded that in fatalities that result in the custody of children being in question, best practice would be for these matters to be heard by Family Court where services would be available to the children.

- **Prosecutors**

Recommendations:

- In the case of a domestic violence fatality, a referral should be made for victim's compensation funds for the affected children and such claim should be filed through the prosecutor's victim's advocate.
- Notification should be made to the affected children's school or childcare regarding the domestic violence fatality by the victim advocate in the prosecutor's office.

- The victim advocate in the prosecutor's office should work with the affected children providing support that could include referrals to mental health counseling.

Comment: In both reviews, children were affected intimately by the deaths and the Commission recommends that children's needs as victims be recognized and addressed within the system.

- **Law Enforcement**

Recommendation:

- Law enforcement agencies should adopt a statewide uniform domestic violence checklist to be used when processing a domestic violence suspect similar to the DUI processing form. The checklist should be part of a training bulletin and should include a contact page for services available to domestic violence victims and a section for documenting contacts and follow-up efforts by investigators and advocates.

Comment: After both reviews, the Commission concluded that a thorough checklist supplemented by a training bulletin would benefit law enforcement, the alleged victims and the defendants.

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 cross-reference.
- 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.

Comment: As stated above, weaknesses in the effectiveness of the federal and state warrant systems were identified in our reviews. These weaknesses are particularly problematic in domestic violence cases which are often dangerous and volatile.

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.

Comment: The Commission notes that great progress has been made between law enforcement and domestic violence programs. The Commission recommends that the dialogue continue as described above.

- **Emergency Services**

Recommendation:

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

Comment: The use of cell phones has become prevalent in Vermont. In one review, a call placed on a cell phone by a victim could not be tracked. At the time of the call the victim was being followed by her husband who was wanted pursuant to both state and federal arrest warrants. The Commission encourages law enforcement and emergency service providers to research the establishment of a statewide method to track cell phones similar to the enhanced 911 service.

- **Department of Motor Vehicles**

Recommendation:

- The Department of Motor Vehicles should have the authority to perform thorough criminal checks which would include accessing state and federal arrest warrant information before issuing driver's licenses.

Comment: In one matter, a defendant who had state and federal arrest warrants pending was able to obtain a motor vehicle license and register a car without the Department being made aware of the pending warrants. The Commission concludes that collaboration between the Department and law enforcement would benefit both organizations.

- **Interpreters**

Recommendation:

- Interpreters should be provided at every stage of a criminal case to assure due process including initial investigation, court proceedings and case preparation.

Comment: The Commission notes that great progress is being made regarding interpreters by the Vermont Court system. The Commission applauds the 2004 Report on the Interpreter Services in the Vermont Courts¹⁶ issued by the Sub-Committee on Court Interpreters of the Committee on Fairness and Equal Access to Justice Committee. The Commission notes that the Court Administrator's Office is in the process of implementing the Report's recommendations regarding access to interpreters in courts. While recognizing these great improvements, the Commission comments that similar efforts need to be made to assure interpreters are available during the investigation and for attorneys during case preparation.

- **Department of Corrections**

Recommendations:

- All incarcerated persons convicted of domestic violence offenses should receive gender appropriate domestic violence prevention programming while incarcerated.
- If a domestic violence offender is incarcerated and Corrections is considering allowing contact between the defendant and his/her children (including letters, phone, email, in person, etc.), the Department of Corrections should consult with domestic violence and child advocates, and mental health professionals to determine appropriateness of contact.

Comment: The Commission notes that when a domestic violence defendant is incarcerated, programming and policies should be implemented that: 1) allow the defendant to receive domestic violence counseling and 2) allow for the Correctional officers to consult with advocates and professionals as to whether contact between the defendant and surviving family members is appropriate.

Recommendation:

- The Department of Corrections should reinstate specialist positions to work exclusively with domestic violence offenders.

¹⁶ A Report on the Interpreter Services in the Vermont Courts is available through the Office of Court Administrator's web site at www.vermontjudiciary.org.

Comment: The Commission concludes that having correctional officers that are specifically trained to work with domestic violence offenders will benefit the defendants, the victims and their families.

- **Department for Children and Families, Family Services Division (FSD)**

Recommendation:

- The Department for Children and Families, Family Services Division should establish a multidisciplinary workgroup to discuss the role of Child Protection in situations where children witness the homicide of one parent by the other. Discussion should include: termination of parental rights of the perpetrator, contact and visitation issues, working with Probate courts, etc.

Comment: The Commission acknowledges the difficult nature of the issue where children witness one parent murder another. The Commission urges the Department to commence discussions as to the children's relationship with the surviving parent.

Recommendation:

- The Department in conjunction with prosecutors, law enforcement and domestic violence child advocates should develop and adopt a best practice or protocol which addresses the needs of children when present at a domestic violence related fatality. In this protocol, consideration should be given to interviewing children and to Vermont's Model Protocol noted above regarding the law enforcement response to children at the scene of a domestic violence incident.

Comment: In both review cases, children were present at the scene of the fatality. As noted in the 2004 data above, in two of the homicides this past year, three children were present at two crime scenes. The Commission urges the Department to collaborate with advocates and law enforcement to determine the best course of action in these tragic cases.

- **Domestic Violence Advocates**

Recommendation:

- Domestic violence programs and support agencies (such as local law enforcement, FSD, mental health providers, etc.) should work together to create letters of agreement or Memoranda of Understanding which address how to make referrals to local domestic violence programs and establish protocols for support agencies that wish to call a domestic violence hotline on a victim's behalf.

Comment: The Commission encourages all local partners to work together to improve the referral system to domestic violence programs and to establish

formal procedures with local support agencies regarding making referrals on behalf of victims.

Recommendation:

- Domestic Violence programs should agree to release confidential information to the Fatality Review Commission regarding a deceased victim of domestic violence whom they had contact with. In this vein, programs should adopt a procedure between staff and clients that elicits a dialogue regarding the potential sharing of confidential client information in the event of the client's death.

Comment: The Commission appreciates the careful consideration that the Network domestic violence programs have given this issue however the Commission hopes that the programs will deliberate the issue further. Pursuant to 15 V.S.A. Section 1140, the Commission is a confidential body and its proceedings are not subject to subpoena, discovery or introduction into evidence in a criminal or civil action. Given the Commission's statutory confidentiality, the Commission is hopeful that the domestic violence programs will re-consider its current position of retaining confidential information.

- **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: The Commission notes that in both 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 Vermont Network Against Domestic and Sexual Violence's newly staffed position entitled Economic Justice Coordinator and we look forward to collaborating with this Coordinator on these critical issues.

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.

Comment: The Commission recognizes that in order to make societal changes regarding the prevalence of violence in our communities, we need to broaden the audience and the partners. The Commission encourages local communities to commence this discussion.

- **Health Care**

Recommendation:

- The Commission will research the issue of accessing medical records of the decedents to include the ability to speak with the decedents' medical providers and the interplay of HIPPA and domestic violence fatality investigations. The Commission will consult with other states' Fatality Review Teams on these topics.

Comment: As noted above, during its reviews, the Commission was not able to access medical records of the decedents. As a result, questions remain unanswered that would be relevant to our statutory charge. The Commission will research this topic and consult with other review teams who have been able to access these records. The Commission is also concerned with the effect of HIPPA on the investigation of a domestic violence fatality in terms of a health care professional's ability to release medical records to law enforcement. The Commission will research this issue as well.

CONCLUSION

The Commission learned from the reviews it conducted and hopes that the 2005 data and recommendations educate Vermonters about the prevalent and tragic nature of these fatalities. Over the next year, the Commission will continue conducting case reviews and work to implement the recommendations contained in this Report. 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.

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;

(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 1303¹⁷ and as noted as "family" in the Abuse Prevention statute at 15 VSA Sec 1101(6)¹⁸;
- c. the alleged perpetrator and victim were related as "household members" under the Abuse Prevention Act at 15 VSA Sec 1101(2)¹⁹;
- d. the alleged perpetrator killed an estranged partner's current "household member"²⁰;
- e. the alleged perpetrator killed his current partner's estranged "household member"²¹;
- f. the alleged perpetrator killed a family member's current or estranged "household member";²²
- g. the alleged perpetrator killed bystander(s) while attempting to harm family or "household members";
- 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

¹⁷ 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

¹⁸ "Family" shall include a reciprocal beneficiary. 15 VSA 1101 (6)

¹⁹ "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)

²⁰ See footnote 3 for definition of "household member"

²¹ See Footnote 3 for definition of "household member"

²² See Footnote 3 for definition of "household member"

- 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 AS OF DECEMBER 2004**

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;

Amy S. FitzGerald
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609
802-828-5520 phone
802-828-2154 fax
afitzgerald@atg.state.vt.us

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

Dr. Don Swartz
Department of Health
108 Cherry St., PO Box 70
Burlington, VT 05402
863-7200 phone
dswartz@vdh.state.vt.us

Alternate:

Tracy Phillips
Department of Health
108 Cherry St., PO Box 70
Burlington, VT 05402
863-7606 phone
tphilli@vdh.state.vt.us

- The Commissioner of Social and Rehabilitation Services, or his or her designee;

Ellie Breitmaier
Coordinator of the Domestic Violence Unit
Department For Children and Families
103 S. Main St.
Waterbury, VT 05671
241-1206 phone
ebreitmaier@srs.state.vt.us

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

Currently Vacant.

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

Captain Tim Bombardier
Department of Public Safety
103 S. Main St.
Waterbury, VT 05671
244-8781 phone
tbombardier@dps.state.vt.us

Alternate:

Major Bruce Lang
Department of Public Safety
103 South Main St.
Waterbury, VT 05671
244-8781 phone
blang@dps.state.vt.us

- The Chief Medical Examiner, or his or her designee;

Richard P. Gaun, III
Office of Medical Examiner
Department of Health
111 Colchester Ave. Baird 1
Burlington, VT 05401
863-7320 phone
rgaun@vdh.state.vt.us

- A State's Attorney with experience prosecuting domestic violence cases, appointed by the Executive Director of the Vermont State's Attorneys' Association;

Rosemary Gretkowski
Chittenden County State's Attorney's Office
32 Cherry Street
Burlington, VT 05401
802-863-2865 phone
802-863-7440 fax
rhski@sas.state.vt.us

- The Defender General, or his or her designee;

Matthew Valerio
Defender General's Office
14-16 Baldwin Street
Montpelier, VT 05620-3301
828-3191/786-3803 phone
mvalerio@defgen.state.vt.us

Alternate:

Robert Sheil
Defender General's Office
14-16 Baldwin Street
Montpelier, VT 05620-3301
802-828-3168 phone
802-828-3163 fax
bsheil@defgen.state.vt.us

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

Mark Larson
Vermont Coalition of Batterer Intervention Services
C/O Spectrum Youth and Family Services
31 Elmwood Ave.
Burlington, VT 05401
660-8560 Ext. 103 phone
vtdaep@aol.com

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

Rose Pulliam
The Vermont Network Against Domestic and Sexual Violence
PO Box 405
Montpelier, VT 05602
802-223-1302 phone
802-223-6943 fax
rose@vtnetwork.org

Alternate:

Jenny Beaudin Ring
The Vermont Network Against Domestic and Sexual Violence
PO Box 405
Montpelier, VT 05602
802-223-1302 phone
802-223-6943 fax
jennyb@vtnetwork.org

- A representative of the Vermont Council on Domestic Violence;

Kristina I. Michelsen
Vermont Legal Aid
PO Box 606
Montpelier, VT 05601
802-223-6377 phone
802- 223-7281 fax
kmichelsen@vtlegalaid.org

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

Currently Vacant

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

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

- A physician, appointed by the Governor;

Dr. David Little
Department of Family Practice
235 Rowell Building
UVM
106 Carrigan Drive
Burlington, VT 05405
802-656-4330 phone
David.Little@uvm.edu

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

TJ Anderson
Vermont Criminal Justice Training Council
Vermont Police Academy
317 Sanatorium Road
Pittsford, VT 05763-9712
483-6228 ext 13 phone
483-2343 fax
tjanderson@vcjtc.state.vt.us

APPENDIX E: COMMISSION CASE REFERRAL FORM

	DOMESTIC VIOLENCE FATALITY REFERRAL FORM Domestic Violence Fatality Review Commission Office of the Attorney General - Criminal Division 109 State Street - Montpelier, VT 05609		OFFICIAL USE ONLY	
			Received	By
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/atg/ .				
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 referral would be appreciated.				
SUBMITTED BY				
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/>