

STATE OF VERMONT
DOMESTIC VIOLENCE
FATALITY REVIEW COMMISSION
REPORT



2006

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DEDICATION

This report is dedicated to all the family members, professionals and community members who have testified before the Commission. The Commission is indebted to them for their willingness to speak with us and for their wise recommendations as to how to prevent domestic violence fatalities in Vermont. Community voices are a critical component of the Commission's work and we thank the Vermonters who educated us over the past years.

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 Fourth 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. In 2005, the Commission's Report updated the data in the 2004 Statistical Report and presented recommendations based on two case reviews conducted that year. This Report includes data regarding the fatalities for 2005 and updates the statistical information that dates back to 1994. It also reports on the status of the 2005 Reports' 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;
- 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;
- 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;

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

- 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 2005

In January of 2005, the Commission issued a Report summarizing domestic violence related fatality data from 1994-2004 and presenting the Commission's recommendations regarding two case reviews. 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. In addition, the Chair of the Domestic Violence Fatality Review Commission, presented the Report to the Governor's Cabinet on Criminal Justice.

During 2005, the Commission met bi-monthly and the Executive Committee met monthly. In addition, the Commission added meetings when it conducted a case review in order to accommodate witnesses. The Commission completed one case review and the result of that Review will be presented along with the 2006 reviews in the 2007 Commission Report. The Commission is in the process of reviewing its case review process to make it more effective and chose to complete this internal review before we commenced another fatality case review. The Commission anticipates adopting a new case review process in 2006 that will aid us with our 2006 fatality reviews. In addition, in 2005, the Commission worked on the implementation of a database, which will assist the Commission in maintaining its statistical data.

Domestic violence related fatalities constitute slightly under half of all homicides in Vermont from 1994 -2005. According to Commission data, Forty nine percent (49%) of all homicides during the past ten years are domestic violence related. The percentage increases to sixty one percent (61%) when the data incorporates suicides that follow domestic violence related homicides or domestic violence incidents. Fifty six percent (56%) of the domestic violence related homicides are committed with firearms and seventy eight (78%) of the suicides following a domestic violence homicide or incident also are committed with firearms.

According to Commission data, in 2005, seventeen percent (17%) of all homicides in Vermont were domestic violence related. In 2005, there were 12 homicides and 2 were domestic violence related as defined by the Commission.¹³ There was one domestic violence related suicide, increasing the number of domestic violence related fatalities to twenty five (25%) in 2005. Although the number of domestic violence fatalities declined in 2005, as compared to 2004 where the percentage was forty percent (40%), domestic and particularly sexual violence remains a tragic and serious public safety and health issue in Vermont and the nation.

According to the Department of Corrections, one thousand five hundred and thirty one (1531) persons are under the supervision of Corrections¹⁴ as of June 30, 2005 for domestic violence related offenses¹⁵. When compared to the overall population of persons under Corrections' supervision (14, 396) 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

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

¹⁴ Under the supervision of the Department of Corrections includes: prison; reentry; pre-approved furlough; supervised community sentence; parole; and probation.

¹⁵ The offenses include domestic assault; violations of relief from abuse orders; aggravated domestic assault; and stalking.

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.

During 2005, Vermont's Network Against Domestic and Sexual Violence received and responded to 14,964 hotline calls. Four hundred and thirty eight (438) survivors were housed in shelters and safe homes statewide. There were seven thousand five hundred and eighty seven (7587) victims of domestic violence and one thousand and sixteen (1016) victims of sexual violence identified by the Network. Seven thousand six hundred and fifty eight (7658) children and youth were identified by the Network as having been exposed to violence in their homes. One hundred and nineteen (119) Vermonters over the age of 60 received services from the Network, as well as five hundred and seventy eight Vermonters with disabilities.

During 2005, the Vermont Department for Children and Families, Family Services Division received 1,596 intake calls that identified co-occurring domestic violence and child maltreatment. A total of 2,274 children were involved in these intakes. 360 of these intakes were opened for investigation which included a total of 516 children.

According to the Office of Court Administrator, for the calendar year of June 30, 2004 until June 30, 2005, in Vermont Family Court, there were 3,642 petitions relief from abuse petitions filed which resulted in 1,285 final orders and 9 transfers to other courts.¹⁶

According to the 2004 Vermont Crime Report, the overall number of crimes has declined in Vermont for the fourth year in a row; however, the increase in forcible rape increased a substantial twenty percent (20%). In seventy four percent (74%) of the cases, the defendant was an acquaintance of the victim and in twenty five percent (25%) of the cases the defendant was either a family member or an intimate partner of the victim. In only one percent (1%) of the cases was the defendant a stranger.

In the national context, according to a 2005 study by the Centers for Disease Control and Prevention (CDC), domestic violence affects more than 32 million Americans each year with more than two million injuries and claims and approximately 1,300 deaths. The CDC found that the health care costs associated with each incident were nine hundred and forty eight dollars (\$948) in cases where women were the victims and three hundred and eighty seven dollars (\$387) where men were the victims. According to the CDC, the direct health care costs associated with domestic violence are approximately 4.1 billion dollars and productivity losses resulting from domestic violence are estimated at 1.8 billion dollars.

As demonstrated by the data above, although the number of Vermont domestic violence related homicides declined this year, interpersonal violence remains a serious health and public safety concern in Vermont and in 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 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.

¹⁶ The Relief from Abuse petitions reflected include Title 15 and Title 33 petitions.

SUMMARY OF 2005 DATA

Total Homicides - 12		Relationship	
Domestic Violence Related	2	Partner	0
Female victims	0	Ex-Partner	0
Male Victims	2	Family Member	0
Responsible Party		Household Member	0
Female	0	Other Domestic Violence Related	2
Male	2		
County Distribution			
Addison	0	Lamoille	0
Bennington	0	Orange	0
Caledonia	0	Orleans	0
Chittenden	1	Rutland	0
Essex	0	Washington	1
Franklin	0	Windham	0
Grand Isle	0	Windsor	0
Crime			
Firearm	1	Stabbing	1
Fire	0	Blunt Trauma	0
Strangulation	0	Motor Vehicle	0
Other	0		
Children Present			
Number of crime scenes			0
Number of children present at crime scenes 0			
Domestic Violence Related Homicides			17%
Domestic Violence related Homicides including one suicide			25%

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 five for additional Commission definitions.

HOMICIDE AND DOMESTIC VIOLENCE RELATED FATALITIES CHART 1994-2005

Year	Total # Homicides	Partner	Ex-Partner	Family Member	Household Member	Other DV Related	Total # DV	Total % DV
2005	12 ²	0	0	0	0	2	2	17%
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	149	23	11	17	5	17	73	49%

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 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.

² 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 date 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.

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.

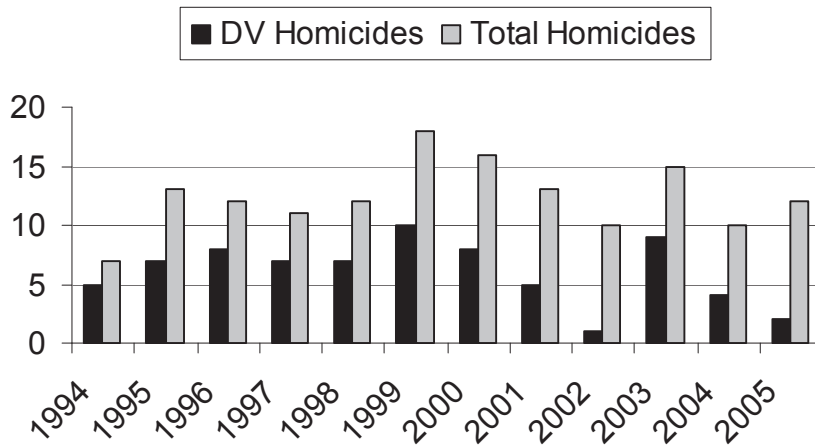
¹³ In addition to these 7 cases, 1 responsible party committed suicide after the homicide.

SUMMARY OF DATA FROM 1994 – 2005

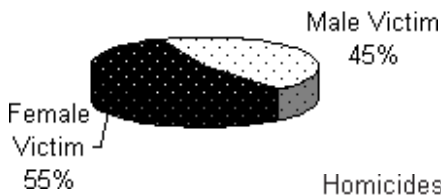
Homicides	Total	149		
Domestic Violence Fatalities	Total	73 or 49 %		
	• Female victims	40		
	• Male Victims	33		
	Responsible Party			
	• Female	12		
	• Male	61		
Relationship	Partner	23		
	Ex Partner	11		
	Family Member	17		
	Household Member	5		
	Other Domestic violence related	17		
County Distribution	Addison	9	Lamoille	3
	Bennington	3	Orange	4
	Caledonia	6	Orleans	4
	Chittenden	14	Rutland	12
	Essex	0	Washington	5
	Franklin	3	Windham	4
	Grand Isle	0	Windsor	6
	Manner	Firearm	41	
Stabbing		10		
Fire		2		
Blunt trauma		11		
Strangulation		4		
Motor Vehicle		1		
Other		4		
Children Present	At crime scene	16		
	Aware of crime scene	6		
	immediately before or after the fact			
Law Enforcement Related Cases	3 (3 cases where domestic violence suspects were killed by law enforcement)			
Suicides related to domestic violence	18 ¹⁴			
	• Female	1		
	• Male	17		
Manner	Firearm	14		
	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 – 2005, the percentage of homicides that are domestic violence related is 61%.

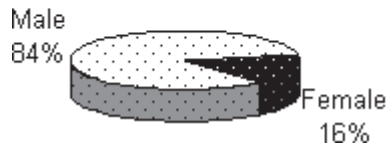
DOMESTIC VIOLENCE RELATED HOMICIDE CHARTS FOR 1994-2005



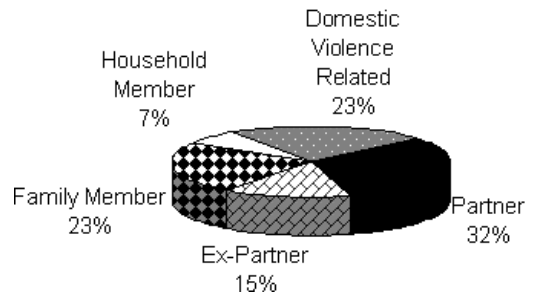
Homicides - 1994-2005
Domestic Violence Related
Gender of Victim



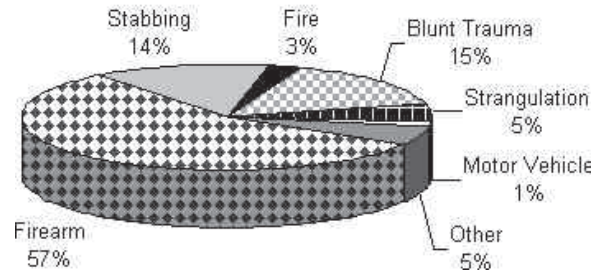
Homicides - 1994-2005
Domestic Violence Related
Gender of Responsible Party



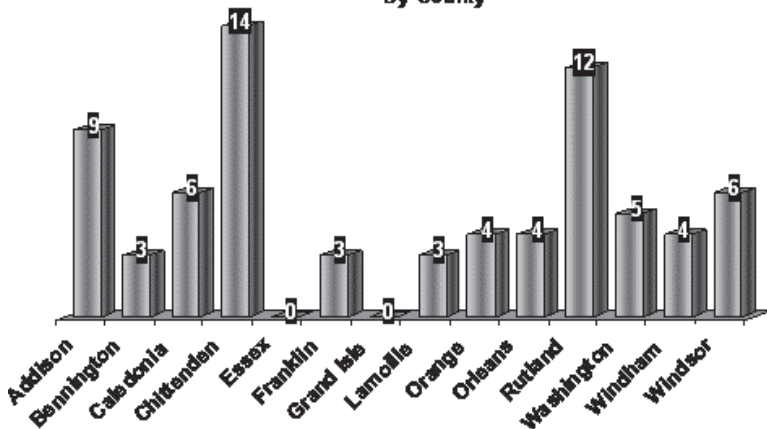
Homicides - 1994 - 2005
Domestic Violence Related
Relationship of Victim to Responsible Party



Homicides 1994-2005
Domestic Violence Related
Method



Homicides - 1994-2005
Domestic Violence Related
By County



RESPONSES TO 2005 RECOMMENDATIONS

Twenty eight Commission recommendations were developed as a result of the case reviews conducted in 2004. 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. The recommendations were published in the Commission's 2005 Report and were presented to the respective agencies and organizations by Commission members in 2005. The Commission is reporting the responses to the recommendations below in bold print. The Commission is gratified that its work is having a positive and tangible impact in Vermont.

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.

COMBINED RECOMMENDATIONS

The Commission made the following recommendations reflecting issues common to both cases. We identified relevant professions and agencies that may be able to incorporate our recommendations in their practices and protocols. We encouraged these groups to give careful consideration to these recommendations and we welcomed 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 was 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.

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.

RESPONSE: The 2005 recommendations were distributed to the Office of Court Administrator's and the State's Attorney's 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.

- **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 with an emphasis on visitation, custody issues and based on best practices.
- 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.

RESPONSE: Members of the Commission met with the Office of Court Administrator's staff to discuss the recommendations. The Administrative Judge for the State Court System has pledged to train more judges on domestic violence issues. In addition, two members of the Commission along with an Assistant United States Attorney conducted a training in November of 2005 at Family Law Day for the Vermont Bar Association and the Judiciary on the interplay between domestic violence, relief from abuse orders and the federal gun control act. Representatives from the Court Administrator's Office and the Commission are working together on additional trainings for the coming year.

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.

RESPONSE: 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. Commission members will continue to work on the recommendation implementation.

- **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 custodian of 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.

RESPONSE: The Report and the recommendation were presented to the victim advocacy community. In 2006, a Commission member will follow-up on these efforts by requesting an opportunity to present the recommendation to the quarterly victim advocates' meetings.

- **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.

RESPONSE: Two members of the Commission researched checklists from other jurisdictions and the checklists in existence in Vermont. A model checklist was drafted. Both the Vermont State Police and the statewide association of Chiefs of Police see the benefits to this approach. The Chair of the Commission is working with the Vermont State Police on a training bulletin and an update to their existing checklist. Implementation of the checklist may vary from county to county due to differing opinions as to what the checklist should include and the fact that three jurisdictions currently use their own checklists. The Commission will continue their efforts in this area with the goal of expanding the use of a checklist in domestic violence cases.

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.

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

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.

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.

In a related development, the Court Administrator's Office is reviewing the protection order process and working on uniform court procedures for court staff regarding issuance and service especially with pro se litigants.

- **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.

RESPONSE: The Commission member 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.

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.

RESPONSE: The Chair of the Commission discussed this recommendation with investigators at the Department of Motor Vehicles. Currently, investigators at the Department of Motor Vehicles do have the ability to access this information and are continuing to discuss the possibility of sharing the information in a timely manner with the licensing employees at the Department.

- **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 Courts¹⁸ 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.

RESPONSE: The Vermont Supreme Court's Committee on Fairness and Equal Access to Justice Sub-Committee on Court Interpreters has been working on implementing the recommendations to improve access and the quality of all interpreters. Currently there is a clear understanding of ADA obligations for interpreter services for Deaf and hard of hearing plaintiffs and defendants. For people with limited English proficiency, access to Language Line Services has been expanded at the Courts. In addition, the sub-committee

¹⁸ 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.

is conducting trainings for interpreters so that they can be qualified to act as interpreters in court settings. The goal is to gather a state-wide registry of qualified interpreters that could be available for all parties. The Judiciary has also been conducting trainings for the Judges and court staff on best practices for appointing and using interpreters.

- **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.

RESPONSE: The Department of Corrections recently presented to the Legislature a proposal to create a domestic violence unit within one of Vermont's prisons and to offer Intensive Domestic Abuse Programming (IDAP) inside this facility and transition defendants into the community based IDAP when appropriate. According to the Department of Corrections, over 30% of incarcerated offenders in Vermont are serving domestic violence sentences. The Vermont Legislature and the Governor have made commitments to increase resources for offender treatment modalities including substance abuse and batterer treatment options.

The Victim Services Unit of the Department of Corrections is currently updating the victim notification process. In addition to addressing the issue of offender/victim contact, the Department is working on creating a directive that could deny any visitation between an offender and the victim. It could create a process to allow for visitation only after the victim conferred with the Department's Victim Services Program to determine whether there are pending court orders and to review the family history.

Recommendation:

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

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.

RESPONSE: The Department of Corrections is working on further domestic violence training for all staff. In addition, the recommendation made by the Department's Incarcerative Domestic Violence Work Group includes specialized in-facility domestic violence staff who could monitor the program and provide domestic violence victim services to the victims of program participants.

- **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, collaboration with children’s mental health programs, child advocacy centers, and the AHS Children Trauma Workgroup on services for children exposed to domestic violence, 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 as well as their mental health needs due to trauma of witnessing violence and grief and loss of a parent.

RESPONSE: In response to this recommendation and because of a recent fatality that involved these issues, the Department for Children and Families has begun an internal discussion to review existing practices and to explore whether additional policies may be needed to address the needs of children who witness domestic homicide. The Commission’s recommendation to establish a multi-disciplinary workgroup to broaden this discussion is currently being considered.

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.

RESPONSE: As discussed in the response above, the Vermont Department for Children and Families has begun an internal discussion to review existing practices and to explore whether additional policies may be needed to address the needs of children who witness domestic homicide.

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.

RESPONSE: Many domestic violence programs already have Memoranda of Understanding or Letters of Understanding in place with their local support agencies. However, the Network's representative serving on the Commission has met with Program directors to discuss this issue further. The goal of these discussions is to create a Memoranda of Understanding or Letter of Agreement template that will then be passed along to Programs to use and/or modify with their local support agencies.

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 contacted 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.

RESPONSE: The Commission continues to work with the Network Against Domestic and Sexual Violence on this issue.

• 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.

RESPONSE: The Commission has identified two local county Domestic Violence Task Force groups that have expressed an interest in addressing these economic issues and community based issues discussed in the two recommendations above. The Commission will continue to work on these local initiatives.

- **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.

RESPONSE: The Commission researched this issue and contacted other states' fatality review groups. The Commission has prepared a release to use in cases where the surviving family members consent to the access. When a family member refuses access to the records the records are not available to the Commission despite its confidential statutory protections. The Commission will research the topic further.

CONCLUSION

Vermont' Domestic Violence Fatality Review Commission is encouraged by the steps taken in response to our first set of recommendations. 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;

(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 1303¹⁹ and as noted as "family" in the Abuse Prevention statute at 15 VSA Sec 1101(6)²⁰;
- c. the alleged perpetrator and victim were related as "household members" under the Abuse Prevention Act at 15 VSA Sec 1101(2)²¹;
- d. the alleged perpetrator killed an estranged partner's current "household member"²²;
- e. the alleged perpetrator killed his current partner's estranged "household member"²³;
- f. the alleged perpetrator killed a family member's current or estranged "household member"²⁴;
- 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 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.

¹⁹ 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

²⁰ "Family" shall include a reciprocal beneficiary. 15 VSA 1101 (6)

²¹ "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)

²² See footnote 3 for definition of "household member"

²³ See Footnote 3 for definition of "household member"

²⁴ See Footnote 3 for definition of "household member"

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;

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:

Edith Munene
Public Health Specialist – Injury Control and Prevention Program
Department of Health
108 Cherry St., PO Box 70
Burlington, VT 05402
651-1978 phone
emunene@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;

Amy Holloway
Director, Victim Services Program
Department of Corrections
103 South Main Street
Waterbury, VT 05671
241-2286 phone
amyh@doc.state.vt.us

- 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;

Dr. Steve Shapiro
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
64 Temple Street
Burlington, VT 05401
862-7596 phone
marklvt@verizon.net

- 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

- A representative of the Vermont Council on Domestic Violence;

Robyn Maguire
The Vermont Network Against Domestic and Sexual Violence
PO Box 405
Montpelier, VT 05602
802-223-1302 phone
vtcdv@yahoo.com

- 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 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/atq/>