

REPORT OF THE

**COMMISSION ON FAMILY
VIOLENCE PREVENTION**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH of VIRGINIA

Commission on Family Violence Prevention

Senator Janet D. Howell
Chair

Harriet M. Russell
Executive Director

January 30, 1997

TO: The Honorable George F. Allen, Governor of Virginia

and

Members of the Virginia General Assembly

The 1996 General Assembly, through Senate Joint Resolution 27, continued the Commission on Family Violence Prevention. The Commission was charged to continue its study of family violence in the Commonwealth to: determine the impact of family violence on children, examine the availability and accessibility of services and resources to victims of family violence, investigate the development of standards for effective Batterer Treatment programs, examine effective prosecution techniques, and determine services, resources and legislation which may be needed to further address, prevent and treat family violence. The Bureau of Justice Assistance of the United States Department of Justice awarded a grant to the Supreme Court of Virginia, Office of the Executive Secretary, to support the work of the Commission.

Enclosed for your review and consideration is the report which has been prepared relating to the work of the Commission. The Commission benefitted from the assistance of over 180 citizens who served on the Commission, subcommittees, and task groups. Over eighty citizens testified at public hearings, and their comments did much to direct our efforts. The Commission also received assistance from all related agencies and gratefully acknowledges their efforts.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Janet Howell".

Janet D. Howell
Chair

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EXECUTIVE SUMMARY

The Commission on Family Violence Prevention was established pursuant to House Joint Resolution 279 in 1994 and continued through Senate Joint Resolution 27 in 1996. The Bureau of Justice Assistance of the United States Department of Justice awarded a grant to the Supreme Court of Virginia, Office of the Executive Secretary, to support the work of the Commission. The Commission has involved a broad base of citizens in its work: 128 individuals on task groups, 75 individuals on subcommittees, and 30 individuals on the Commission.

The Commission is charged to study family violence, including partner abuse, child abuse, elder abuse, sexual assault, and stalking, to: determine the impact of family violence on children; examine the availability and accessibility of services and resources to victims of family violence; investigate the development of standards for effective Batterer Treatment programs; examine effective prosecution techniques; and determine services, resources and legislation which may be needed to further address, prevent and treat family violence.

1997 Legislative Agenda

During the 1997 General Assembly Session, the Commission is presenting legislation based on the work of the task groups, testimony received at public hearings, and consideration of proposals presented by the City of Alexandria and other interested parties. After reviewing the recommendations of all the Subcommittees, the Commission, at its January 6, 1997 meeting, adopted the following legislative agenda:

SB 113 Clarifications -

- § 16.1-253.1 and § 16.1-253.4 - clarifies that information for Preliminary and Emergency Protective Orders, including the date of service, should be entered by local law enforcement personnel into the Virginia crime information network "as soon as practicable after issuance";
- § 16.1-253.4 - explains that only a law-enforcement officer may request by electronic means (i.e., telephone) the issuance of an emergency protective order;
- § 16.1-253.4 - clarifies that upon the issuance of a warrant for violation of § 18.2-57.2 and the likelihood of future abuse, an emergency protective order shall be issued;
- § 16.1-279.1 - technical amendment to the protective orders section granting full faith and credit to orders issued by other states which conforms our statute to the federal statute;
- § 19.2-81.3 - allows that a local law enforcement department, instead of a particular officer, shall make a copy of a summary report available to an allegedly abused person.

Criminal Injury Compensation Fund (CICF)

- §19.2-368.2 - includes injuries from stalking as compensable through the CICF;
- §19.2-368.6 - provides that upon their request, CICF shall receive medical records related to criminal injuries from the health care providers;

Physical Evidence Recovery Fund

- §19.2-165.1 - includes animate object sexual penetration and marital sexual assault in the list of qualifying reimbursable offenses; moves the administration of the fund that compensates health

care providers for the recovery of evidence in sexual assault cases from the Supreme Court of Virginia to the Department of Criminal Justice Services.

Resolutions

Legislative study of the Criminal Injury compensation Fund (CICF)

- study the standards applied to the compensation of victims, debt collection during the pendency of a claim, criteria used to determine contributory behavior, mental health services documentation, and assistance provided to victims.

Legislative study of the establishment of a Batterer Intervention Program

- study the feasibility of creating a statewide mandatory intervention program for batterers similar to the VASAP model in place for drunk drivers; the study should produce recommendations related to the structure, staffing, budget, central oversight and fee mechanism required to establish such a program; legislative members of the Commission on Family Violence Prevention and the VASAP advisory Board should participate in the study.

Resolution directing the Commission to develop standards for Batterer Intervention Programs

- develop minimum standards of practice for programs providing court ordered services for batterers; standards should address the following: program philosophy & purpose, group type & structure, provider qualifications, staff education & training, intake & non-compliance procedures and feedback to the courts; this effort will be coordinated with the legislative study to establish the monitoring & oversight body.

Resolution directing the Commission to assure training is provided to certain groups

- assure training for criminal justice personnel including judges, substitute judges, clerks, magistrates, law enforcement personnel, probation and parole officers, defense attorneys, Commonwealth's Attorneys, Guardians ad Litem, and Court Appointed Special Advocates; and for human services personnel including mental health and health care providers.

Resolution to continue the Commission

- directs the Commission to further study the impact of family violence on children, determine what resources and services are needed, and examine the role of the business, religious and scholastic communities in preventing and responding to family violence; add the Commissioner of the Department of Health, the Director of the Department of Criminal Justice Services, a representative of the media and a representative of the business community to the Commission.

Budget Issues

- Introduce a budget amendment to add \$200,000 to the Department of Social Services to support the Child Protective Services Multiple Response Pilot Project. These funds would be used to allow for purchase of services for children living in abusive homes.
- Add language in the budget directing the Office of the Executive Secretary of the Supreme Court and the State Police to work cooperatively to develop a streamlined and efficient method to enter protective orders in the criminal information network so that the information entered can be used to expedite service, enhance enforcement and serve as a registry that can be queried across jurisdictions. The agencies should determine what equipment or other resources would be needed to establish such a system and report back

- to the Commission and next session of the General Assembly.
- Introduce a budget amendment to provide \$60,000 for the contiued work of the Commission on Family Violence Prevention.

Formal Endorsement

- City of Alexandria's Recommendations
 - Elevate the crime of stalking from class 2 misdemeanor to a class one misdemeanor;
 - Create the crime "stalking with a deadly weapon" which will be punishable as a felony (possibly class 6);
 - Give General District Courts the powers of protective orders when a warrant for stalking has been issued;
 - Support Delegate Moran's HB 150, which would not allow accord & satisfaction in cases of family or household member assault and battery.
- Support a budget amendment to add funds to the Family Violence Prevention Fund to support child abuse prevention services at the local level - \$500,000.
- Support a budget amendment to add funds to support Healthy Families Programs across Virginia- \$600,000 (this would continue 5 existing programs and add 6 new sites).

FINDINGS, ACCOMPLISHMENTS AND RECOMMENDATIONS

COMMUNITY RESPONSE SUBCOMMITTEE

The Community Response Subcommittee, chaired by Lt. Governor Beyer is charged with assisting and supporting communities to assure an efficient, responsive, comprehensive, coordinated response to family violence. The subcommittee recognizes that the efforts of localities are critical to the understanding of family violence and the development of appropriate localized responses. To this end, the Subcommittee maintained four Task Groups: Victim Compensation, Batterer Intervention Standards, Victim Services, and Data. The recommendations of these task groups, as well as a number of additional issues addressed by the subcommittee, are summarized below.

Batterer Intervention Standards Task Group

The Batterer Intervention Standards Task Group was created in order to investigate the development of standards for effective Batterer Intervention programs. The analysis of national certification trends (see Appendix E), together with a survey of existing programs in Virginia and discussion with treatment providers, led task group members to recognize the immediate need for improvement of the feedback mechanism between intervention programs and referring courts, and further work on the development of state standards of practice.

Recommendations:

- 1. Develop a model standard form to serve as a feedback system between intervention programs and the courts.**
- 2. Introduce a resolution directing the Commission to develop minimum standards for Batterer Intervention Programs providing court ordered services for batterers. The standards should address: program philosophy & purpose, group type & structure, provder qualifications, staff education & training, intake & non-compliance procedures and feedback to the courts.**

Data Task Group

The electronic transfer of information between courts and law enforcement would facilitate the entry of protective order information into the Virginia Criminal Information Network managed by State Police, allowing local law enforcement to obtain protective order status information when responding to family violence incidents, as well as ensuring that background checks for weapon purchases have complete and current information available. Additionally, magistrate access to VCIN is important for ensuring that appropriate charges and bond conditions can be set in situations involving family violence.

Recommendations:

3. **The Commission should encourage State Police and the Office of the Executive Secretary to work together to overcome the problem with VCIN entry of protective orders.**
4. **The commission should undertake a survey of magistrates to determine how many currently do not have access to VCIN and develop recommendations on how to ensure all magistrates have such access.**

Victim Compensation Task Group

The Criminal Injuries Compensation Fund (CICF) is a crucial resource for victims of violent crimes. The goals of the Victim Compensation Task Group were to (1) examine the process and procedure of the CICF; (2) survey professionals across the Commonwealth who work with victims of family violence regarding referral mechanisms and procedures related to compensation; and (3) develop recommendations on how the Fund can be helpful to victims of family violence. Through public testimony, surveys of victim services professionals (see Appendix F), and other research, the Task Group learned that a number of victims remain unserved or underserved by CICF.

Recommendations:

5. **CICF should drop the requirement of an M.D. referral to a mental health provider in order for mental health expenses to be compensable.**
6. **Add stalking victims to the list of victims that are eligible to receive mental health counseling benefits.**
7. **The Commission should work with CICF and medical providers to explore avenues for decreasing the use of debt collection for victims with compensation claims pending.**
8. **Encourage the CICF to explore ways in which CICF can provide more support and assistance to victims in accessing the compensation process and obtaining the necessary information to complete the claims process.**
9. **The Commission should request a legislative study committee of the Criminal Injuries Compensation Fund to examine use of a consistent definition of "victim"; the definition of "innocent victim" and the evaluation of contributory conduct; the evaluation of the validity of mental health claims; the appeals process; and the use of a workers' compensation model for the CICF program. Commission representatives should be included in the study committee's composition.**

Victim Services Task Group

To determine what services are available to family violence survivors in the

Commonwealth, the Task Group met with representatives from the state agencies that provide the primary sources of funding for domestic violence, child abuse, elder abuse, and sexual assault services in Virginia. From this work, the Task Group examined the types of services that are being funded, the funding streams, the localities presently receiving funding, and the relevant technical assistance needs.

Recommendations:

10. **The Commission should publish an annual guide to funding for family violence prevention and intervention programs in the Commonwealth. The guide should also include sources for training and technical assistance related to grant writing.**
11. **The Commission should create a standing Victim Services Task Group to consist of (1) state agency grants managers of programs that provide substantial funding to family violence services, and (2) family violence services providers.**

Other Issues

The subcommittee examined two other issues related to the prevention of family violence - early intervention programs and the role of the business community. Recognizing the long term value of early intervention with children as a mechanism for preventing violence later in life, the subcommittee encouraged the Commission to support early intervention programs such as Healthy Families. The subcommittee also agreed that the business community plays a vital role in responding to violence in the workplace as well as in working with the community in its prevention and education efforts. These issues should continue to be a focus for the Commission in its future workplan.

Recommendations:

12. **The Commission should support a budget amendment to provide funds for the development of Healthy Families sites throughout the Commonwealth.**
13. **The continuing resolution for the Commission on Family Violence Prevention should include a study of the role of the business community in the prevention of and response to family violence.**

LAW ENFORCEMENT SUBCOMMITTEE

The Law Enforcement Subcommittee, chaired by Attorney General James S. Gilmore, III, is charged with examining the law enforcement response to family violence incidents and determining methods to improve and support that response. This subcommittee has focused on the implementation of The Family Violence Bill, SB 113, which sets out a statewide arrest policy, requirements for law enforcement training and local policy development. The subcommittee has also provided oversight for Senate Joint Resolution 69 which directs the Commission to "assure that training is provided for justice system professionals, including judges, Commonwealth's attorneys, law enforcement officers, clerks, intake officers, and magistrates, on the statutory provisions and procedures related to protective orders and stalking." In addition, the Subcommittee has examined the correlation between drug/alcohol abuse and family violence and means for addressing coordinated treatment of these problems.

The Correlation of Drug & Alcohol Abuse to Family Violence

The subcommittee received testimony and evidence from substance abuse treatment professionals, mental health services providers, law enforcement personnel and court personnel

regarding the correlation between substance abuse and family violence. Some figures estimate that about 40% of cases of family violence also involve substance abuse. Yet, to date, there are no clear guidelines or response to this phenomenon.

Recommendations:

14. **A study should be conducted on the feasibility of creating a statewide mandatory intervention program for batterers similar to the VASAP model in place for drunk drivers. The study should produce recommendations related to the structure, staffing, budget, central oversight and fee mechanism required to establish such a program.**

Implementation of SB 113

Staff of the Commission made presentations to over 20 statewide, regional and local professional and civic groups related to SB 113. The magistrates received six hours and the district court clerks three hours of training on implementation of SB113 and stalking at their mandatory Fall Regional Training sessions. The ability for magistrates and other court personnel to access the Virginia Criminal Information Network (VCIN) is crucial to the ability of these persons to carry out their duties. For example, if magistrates do not have the history of a person who has had prior arrests and convictions, the magistrate will not make an informed decision regarding an appropriate charge in assault and battery of family members cases or in determining conditions of bond.

Recommendations:

15. **Request the Virginia State Police to continue to pursue providing access to the Virginia Criminal Information Network (VCIN) system to all magistrates and other state agencies who need such information.**

Training Task Group

The primary goal of the training task group was to ensure that the mandate of Senate Joint Resolution 69 was met. The task group also sought to identify what groups were already involved in training criminal justice professionals, the response to that training and to define what other training needs exist. Groups who were provided training and feed back included: Chiefs of Police, sheriffs, Juvenile and Domestic Relations District Court Judges, Circuit Court Judges, magistrates, district court clerks, and law enforcement training academy directors.

Recommendations:

16. **Assure that the Department of Criminal Justice Services' Model Policy and training standards provide guidance related to the terms "primary physical aggressor" and "special circumstances."**
17. **Encourage localities to require law enforcement personnel to report the presence of children when responding to domestic violence calls.**
18. **Provide additional training to justice system professionals regarding lethality assessments and conditions of release.**
19. **Assure magistrates are regularly and consistently evaluated by the appropriate Circuit or General District Court Judge and Chief Magistrate of their locality related to their knowledge of pertinent code sections, policies and procedures related to family violence; their cooperation with other community organizations and agencies; and their response and courtesy to the public.**

Physical Evidence Recovery in Cases Involving Sexual Battery and Related Offenses

Costs associated with the recovery of physical evidence in cases involving rape, attempted rape, child molestation, taking indecent liberties with children, sodomy, forcible sodomy, incest, inanimate sexual object penetration, sexual battery and aggravated sexual battery are paid out of the existing appropriation for criminal charges under §19.2-165.1 of the Code of Virginia. The Supreme Court of Virginia implemented policies identifying procedures that are reimbursable and establishing maximum fees for reimbursement based on Medicaid rates.

These policies resulted in two problems:

1. No consistent and uniform procedure is established for the task of recovering key physical evidence. The procedures used and the method of implementation of these procedures are left to the individual hospitals designated by the local Commonwealth's Attorney.
2. Many bills submitted by localities for reimbursement of the costs have gone unpaid or underpaid. Procedures used for evidence recovery are often coded in different ways in different hospitals and these codes do not correspond to the codes established by the Supreme Court. As a result some bills have not been paid because the codes on submitted bills do not correspond to the Supreme Court's codes.

Recommendations:

20. **Introduce legislation to establish the Virginia Physical Evidence Recovery Fund to create a special fund administered by the Department of Criminal Justice Services (DCJS). Funds designated for fees associated with the gathering of physical evidence in the appropriation for criminal charges should be transferred to such VPER fund.**
21. **Amend statutory language regarding the offenses of inanimate and animate object sexual penetration to provide consistency and include the offense of marital sexual assault as a qualifying offense reimbursable under VPER.**

LEGISLATIVE/JUDICIAL SUBCOMMITTEE

The Legislative/Judicial Subcommittee of the Commission, chaired by Delegate Linda T. "Toddy" Puller, exists to provide guidance to the Commission on legislative drafting, the tracking of bills affecting family violence issues through the General Assembly, analysis of the budget as it affects family violence programs, and the development of task groups to facilitate discussions and proposals. The task groups formed under this subcommittee were as follows: (1) The Impact of Family Violence on Children, (2) Effective Prosecution, and (3) Drafting. The recommendations of these task groups are listed below.

Effective Prosecution

In order to improve prosecution of cases of family or household member assault and battery, the Effective Prosecution Task Group has studied issues related to reluctant witnesses, evidentiary standards, court docketing procedures and training for Commonwealth's Attorneys. The recommendations made from this task group are as follows:

Recommendations:

23. **Support the inclusion of a chapter on the effective prosecution of family violence in the Commonwealth's Attorneys' Handbook. Include an appendix to serve as a**

Virginia Domestic Violence Case Finder. Provide assistance to the Commonwealth's Attorneys' Services Council in development of this chapter and associated training efforts, as requested.

- 24. Support improved court calendar management by endorsement of the Virginia Supreme Court's Office of the Executive Secretary's local calendar management project related to Juvenile and Domestic Relations Courts; encourage use of Next Date Software by all courts; provide information to all clerks related to effective management of family violence cases.**
- 25. Request that the Board of Bar Examiners add questions on domestic violence to the Bar Exam;**
- 26. Assure magistrates have access to VCIN to improve bail and conditions of release decisions;**
- 27. Monitor Victim/Witness Program Assistance Grant allocation and encourage every jurisdiction to apply for Department of Criminal Justice Services funding and create such a program.**

Impact of Family Violence on Children

Based upon the Senate Joint Resolution 27, the Commission established a task group to study what impact family violence has on children. The task group listened to many presentations regarding the effects of violence with special emphasis on the impact of witnessing violence between adults in the home. The task group agreed that the impact on children is significant and can include physical, psychological, social and even educational problems.

Recommendations:

- 28. Include information in next year's SPAC packet about how children in abusive homes can be safe;**
- 29. Provide Information to school systems regarding family violence including (1) impact of family violence on children, (2) understanding protective orders, custody and visitation orders, and (3) safety planning for children and school personnel;**
- 30. Request the Health Care Provider Task Group of the Commission include information on screening to identify children in abusive homes and safety planning for children in any materials recommended for distribution;**
- 31. Provide/Assure the following persons' training includes information on domestic violence and its impact on children: the Defense Bar, Guardians Ad Litem, the judiciary, and Court Appointed Special Advocates (CASA);**
- 32. Support funding and policy to ensure computer access to Virginia Criminal Information Network (VCIN) for magistrates;**
- 33. Enhancement of the DSS Multiple Response Pilot Project to incorporate attention to the identification of domestic violence when assessing a CPS complaint and request a budget amendment to provide additional services to children who are affected by witnessing domestic violence in their homes.**

PUBLIC AND PROFESSIONAL AWARENESS SUBCOMMITTEE

The Public and Professional Awareness Subcommittee, co-chaired by Delegate C. Richard Cranwell and Judge Roy B. Willett, was formed to provide an in-depth look at how the

public and professional community responds to family violence. In order for the victims of family violence to be effectively identified and served, it is necessary that the professionals who come in contact with them be adequately informed of services, resources and legislation pertaining to family violence prevention and treatment. An increased awareness from professionals will result in increased effectiveness when responding to the victims of family violence.

Family Violence Curriculum for Medical Students

The goal of this planning committee, comprised of representatives of Virginia's three medical schools, is to generate a core document that offers various options for a curriculum on family violence for medical students and residents. The core curriculum will include information on family violence identification, early intervention and prevention. This curriculum can be adapted for use by the medical schools in Virginia.

Recommendations:

- 34. The Commission should continue to facilitate meetings of the planning committee and encourage support from the three medical schools and other community medical resources.**
- 35. The Commission should convene a symposium to provide information concerning the curriculum to the faculty members of the three medical schools.**

Health Care Provider Task Group

Physicians, nurses, dentists, and other community health professionals comprised the Health Care Provider Task Group. The goals of the Health Care Provider Task Group were to: (1) Conduct an analysis of how different health care systems respond to the identification and referral of family violence victims; (2) Identify state and nationally recognized efforts concerning health care systems' responses to family violence; and (3) Develop recommendations for health care systems and practicing providers.

Recommendations:

- 36. The Commission should develop a model core protocol and user-friendly victim information template for use by physicians, dentists, and those in the health care settings of hospitals, emergency medical services, and home health care.**
- 37. The Commission should investigate the availability of self-education materials about family violence, including a video tape and manual, that could be distributed to and used by health care providers.**
- 38. The Commission should conduct an analysis of the costs and methods of payment of health care resulting from family violence in Virginia.**

Statewide Public Awareness Campaign (SPAC)

Representatives from statewide victim advocacy organizations and agencies serving victims of family violence comprised the SPAC planning group. The goal of this group was to develop the second edition of a public awareness kit containing camera-ready information about prevention of child abuse, domestic abuse, elder abuse, dating violence, and sexual assault. Statewide distribution of over 5,000 packets occurred in the fall 1996.

Recommendations:

- 39. The Commission should continue its support of the Statewide Public Awareness Campaign by continuing to serve as the convener of the planning committee of the**

SPAC Packet. Next year's packet should include information on the impact of family violence on children.

- 40. The Commission should investigate the availability of public and private funds allocated for statewide public awareness efforts about family violence, including those available through the Family and Children's Trust (FACT) Fund.**
- 41. The Commission should expand the Statewide Public Awareness Campaign planning committee to include representation from the Health Department.**
- 42. The Commission should continue to encourage collaboration and sharing of resources among individuals, agencies, and organizations addressing family violence in Virginia.**

COMMUNITY RESPONSE SUBCOMMITTEE

The Community Response Subcommittee, chaired by Lt. Governor Beyer is charged with assisting and supporting communities to assure an efficient, responsive, comprehensive, coordinated community response to family violence. The subcommittee recognizes that the efforts of localities are critical to the understanding of community needs and the development of appropriate localized responses. To this end, the subcommittee is interested in developing resources wisely - identifying resources of public, private, and non-profit agencies and enabling them to work together against family violence. These efforts are designed to respond effectively to family violence once it has occurred, but also to prevent family violence from escalating or even starting in the first place. To this end, the Subcommittee maintained four Task Groups - Victim Compensation, Batterer Treatment Standards, Victim Services, and Data. The recommendations of these task groups, as well as a number of additional issues addressed by the subcommittee, are summarized below.

Batterer Intervention Standards Task Group

The Batterer Intervention Standards Task Group was created in order to investigate the development of standards for effective Batterer Intervention programs. In an effort to meet this charge, the recruitment of task group members was guided by the goal of convening a multidisciplinary team with expertise in all areas of social services, mental health services, corrections, law enforcement, and direct victim and perpetrator services. Together, these group members worked to achieve the following task group goals: (1) survey national trends in the development and enforcement of certification standards for batterer treatment programs; (2) identify existing batterer treatment programs in the Commonwealth and assess their structure and functioning; (3) outline core program elements essential to effective and ethical service provision; and (4) draft recommendations regarding both the status of batterer treatment programs in the Commonwealth and the utility of state certification standards for these programs. (See appendices for results of the surveys undertaken by the task group.)

Through a series of task group meetings and ongoing collaboration with Virginians Against Domestic Violence and the state's Coalition for the Treatment of Abusive Behaviors (CTAB), the task group was able to achieve each of these goals. The task group's survey and analysis of national trends in batterer treatment certification resulted in the extraction of core elements and practices which are fundamental to the provision of competent and efficacious batterer treatment, as well as a directory of treatment providers in Virginia. This analysis, together with discussion with treatment providers, led task group members to recognize the immediate need for improvement of the feedback mechanism between treatment programs and referring courts.

With the enactment of Virginia's new arrest policy statewide, there will be increased demands for programs to deal with abusive individuals. The task group determined the need to develop minimum standards of practice for programs providing court ordered services to batterers. These standards should be designed to: (1) foster uniformity in the philosophical and practical approach to the treatment of abusive partners; (2) assure that batterers will receive services that hold them accountable for their behavior and that maximize the safety of victims and their children; (3) provide criteria against which the performance and efficacy of a program can be measured and the need for programmatic changes assessed; (4) promote inter-agency communication and collaboration regarding batterer rehabilitation and victim safety. The standards should address program philosophy and purpose, group type and structure, provider qualifications, continuing education and training for staff, intake procedures, response to non-compliance, feed back to the courts, and identification of and referral for alcohol or substance abuse problems. (A more detailed description of the proposed core elements is contained in the appendices.)Based on the task group's work, the subcommittee recommends:

- Development of a model standard form to serve as a feedback system between intervention programs and the courts.
- Introduction of a resolution directing the Commission to develop standards for Batterer Intervention Programs. Standards should address program philosophy & purpose, group type & structure, provider qualifications, staff education & training, intake & non-compliance procedures and feedback to the courts. This effort will be coordinated with the legislative study to establish the monitoring & oversight body.

Data Task Group

In order for justice system professionals to respond more effectively to family violence incidents, it is necessary for data systems to provide information on protective orders, pending charges, and previous arrests. The electronic transfer of information between courts and law enforcement would facilitate comprehensive entry of protective order information into the Virginia Criminal Information Network (VCIN) managed by State Police, allowing local law enforcement to obtain protective order status information when responding to a family violence incident, as well as ensuring that background checks for weapon purchases have complete and current information available. Anecdotal information suggests that there is a breakdown somewhere in the current VCIN entry system which prevents some protective orders from being entered.

The Task Group has tried to work on two fronts - assessing the nature of the problem and investigating ways to improve information exchange between systems. The Task Group is working with the Office of the Executive Secretary of the Supreme Court (OES) to track the number of protective orders issued through the Court Management System computer for a two month period. Virginia State Police agreed to create a data tape of the protective orders entered into VCIN during that same time period. The Task Group has also been investigating various methods for streamlining the flow of information. Currently, courts and local police both type

protective order information into two separate computer systems. It is possible that there could be an electronic link between courts, local law enforcement, and VCIN which would make the process more efficient.

Accurate information in VCIN also has implications for the work of magistrates. Assault and battery of family or household members, as well as stalking, based on a specific victim-offender relationship. For both of these crimes, the charge increases from a misdemeanor to a felony depending on past convictions. As such, previous history of criminal convictions and the existence of outstanding protective orders and/or warrants are key to determining the appropriate charge and conditions of bail that adequately protect the safety of victims and their children.

To support the work of the Data Task Group, the subcommittee recommends:

- Adding language in the budget directing the Office of the Executive Secretary of the Supreme Court and the State Police to work cooperatively to develop a streamlined and efficient method to enter protective orders in the criminal information network so that the information entered can be used to expedite service, enhance enforcement and serve as a registry that can be queried across jurisdictions.
- Magistrates have access to VCIN to ensure relevant information is available for setting appropriate bond conditions.

Victim Compensation Task Group

The Criminal Injuries Compensation Fund (CICF) is a crucial resource for victims of violent crime. Many innocent persons suffer personal physical injury or death as a result of criminal acts; the Compensation Fund is intended to provide some financial assistance to victims. The goals of the Victim Compensation Task Group were to (1) examine the process and procedure of the Victims Compensation Fund; (2) survey professionals across the Commonwealth who work with victims of family violence regarding referral mechanisms and use of compensation; and (3) develop recommendations on how the Fund can be helpful to victims of family violence. In conjunction with the Department of Psychology at the University of Virginia, the Task Group surveyed a number of professionals that are likely to assist victims with their compensation claims. (An overview of the results of the survey is contained the appendices.) From this survey, public testimony, and other research, the Group identified areas of concern and developed recommendations. Several changes to CICF procedure have already been implemented by Robert Armstrong, Director of CICF, improving standard correspondence with victims regarding the right to appeal, and with medical providers regarding their responsibility to provide CICF with necessary information. Other areas of concern were also identified.

Victims are required to be referred to mental health services by a medical doctor (M.D.) in order for those services to be eligible for compensation. It is unclear why victims are prevented from accessing a mental health provider of their choice directly without first being

required to obtain an M.D. referral or prescription. The CICF program is designed to serve victims with a personal physical injury (although that language is not consistent throughout the code). Given that stalking can be associated with family violence and can have such a devastating effect including fear of serious injury and death, the Task Group recommends that mental health costs be covered for these victims.

In order to request medical records pertaining to a compensation claim, CICF is currently relying on statutory authority granted to the Workers' Compensation Division. It is unclear whether the CICF has this authority as a function of its location in the Workers' Compensation Division. Both CICF and representatives of the medical providers have indicated that CICF's authority to request medical records should be clarified in statute. Some medical providers have put victims into collections procedures for failure to pay while their compensation claim is still pending. Although this is not a common problem, it does create hardship for victims. The Task Group feels that this problem may be resolved through education of medical providers regarding the compensation process and clearer communication between victims, CICF, and medical providers. Generally, victim access to compensation could be improved with education of service providers, including law enforcement, medical, and mental health service providers.

Through public testimony, surveys of victim services professionals, and other research, the Task Group learned that a number of victims remain unserved or underserved by CICF due to difficulties with obtaining assistance in completing claims. Failure to perfect claims (i.e., provide all necessary information) is one of the most common reasons for denial of benefits. For victims that are already facing issues associated with their criminal victimization, it can be extremely difficult to shoulder the additional burden of interceding with medical providers, law enforcement, and other agencies to obtain necessary information to perfect a compensation claim. Although victim-witness assistance programs (VWAP) have done an excellent job assisting many victims with their claims, assistance with compensation is but one of the many duties that VWAP staff fulfill. Moreover, a substantial number of victims do not access the compensation process through a VWAP office, but instead pursue their claims independently. It is clear from victims that they need additional support and assistance in completing their claims and ensuring that all necessary documentation has been obtained by the CICF office.

It has become clear from the Task Group's intensive work that there are a number of issues that require in depth study before options can be identified and recommendations for change made. Many of these issues are particularly important for family violence victims, but they also impact other victims. These issues include: creating a consistent definition of "victim" in the code; the definition of "innocent victim" and the evaluation of contributory conduct; the evaluation of mental health claims; the appeals process; and the creation of an Advisory Board for the CICF program. Many of these complex issues address fundamental aspects of the compensation process in Virginia for all victims, including family violence victims.

The subcommittee has endorsed the following recommendations relation to compensation for victims of crime:

- CICF should drop the requirement of an M.D. referral to a mental health provider in order for mental health expenses to be compensable.
- Add stalking victims to the list of victims that are eligible to receive mental health counseling benefits.
- Clarify in statute that the CICF has the authority to request medical records from health care providers.
- The Commission should work with CICF and medical providers to explore avenues for decreasing the use of debt collection for victims with compensation claims pending.
- The Commission should encourage CICF to explore educational opportunities with the state associations that represent law enforcement, medical providers, and mental health providers.
- The Commission encourages the CICF to explore ways in which CICF can provide more support and assistance to victims in accessing the compensation process and obtaining the necessary information to complete the claims process.
- The Commission should request a legislative study committee on the Criminal Injuries Compensation Fund to examine use of a consistent definition of “victim”; the definition of “innocent victim” and the evaluation of contributory conduct; the evaluation of the validity of mental health claims; the appeals process; and the use of a workers’ compensation model for the CICF program. Commission representatives should be included in the study committee’s composition.

Victim Services Task Group

The Victim Services Task Group has focused on two primary tasks: (1) assessing the availability of state and federally funded family violence services throughout the Commonwealth; and (2) developing recommendations regarding methods to maximize the use of existing resources in order to deliver more effective services to family violence victims. To determine what services are available to family violence survivors in the Commonwealth, the Task Group met with representatives from the state agencies that provide the primary sources of funding for domestic violence, child abuse, elder abuse, and sexual assault services in Virginia. From this work, the Task Group examined the types of services that are being funded, the funding streams, the localities that are presently receiving funding, and the relevant technical assistance needs. (A chart depicting localities who are currently receiving grant funds is included in the appendices.)

The members of the Task Group shared a common belief that services must be made available to family violence survivors in every community in the Commonwealth of Virginia. Furthermore, the public and private resources, training and technical assistance necessary to support and sustain the provision of those services in a professional and ethical manner must be in place if those services are to be effective. The Task Group agreed that coordination of community services should take place at the local level; therefore, it was not the purview of the Task Group to make recommendations regarding collaboration of use of resources at the local level. However, the Commission does play a vital role in coordinating the response to family violence at the state level. This coordination can facilitate the dissemination of information

regarding available funding for services, as well as coordinating the continued examination and development of strategies to maximize the use of existing resources.

The subcommittee recommends:

- The Commission should publish an annual guide to funding for family violence intervention and prevention programs in the Commonwealth. The guide should also include sources for training and technical assistance related to grant writing.
- The Commission should create a standing Victim Services Task Group comprised of (1) state agency grants managers of programs that provide substantial funding to family violence services, and (2) family violence service providers.

Other Issues

The Commission continued its efforts to provide technical assistance to local family violence prevention coordinating councils. These efforts occurred on two fronts. First, Commission staff assisted three localities in their efforts to sponsor a conference on family violence issues. Commission staff attended and presented at three such conferences in Norfolk, Lynchburg, and Rocky Mount. Each meeting was well attended by community members and justice system professionals, sparking a renewed commitment to local coordinating council efforts. Each community plans follow-up activities including council meetings and possible additional conferences.

The second technical assistance effort followed recommendations from last year's legislative report. The Commission sponsored a one day forum for local family violence prevention councils in Charlottesville. A planning committee consisting of judges, advocates, professionals, and staff developed the agenda and list of panelists. Commission staff sent invitations to all existing councils, as well as juvenile court judges, Commonwealth's Attorneys, victim service professionals, victim advocates, and law enforcement. The Commission covered the costs for up to four members from each locality to attend the conference. Based upon the success of these efforts, the subcommittee recommends:

- The Commission sponsor a conference for local coordinating councils in 1997.

The Commission also finalized a number of educational products developed during the previous year. The Victim Information Card includes general information about domestic violence arrest and court procedure, as well as space for locality-specific information about available resources and services for victims. The final draft of the Anti-Stalking Curriculum was printed and distributed to criminal justice training academies, agencies, and localities. The curriculum includes sections on the legal, law enforcement, and mental health responses to stalking, as well as victim safety and a hypothetical case and a discussion guide. The curriculum has been used by a number of groups, including the Northern Virginia Criminal Justice Academy. The Community Planning Guide is currently being distributed to localities with community councils as well as those who are interested in forming councils. The guide contains chapters on the formation, functions, development, operations, and maintenance of coordinating

councils, as well as a chapter describing potential challenges to council functioning and options for solutions.

During the April Commission meeting, the question was raised about what impact family violence has on the workplace and what efforts the Commission has made to engage the business community in our efforts. At this meeting, subcommittee members viewed a video produced by a business partnership between Walt Disney Corporation and the American Bar Association on family violence issues aimed toward children and adolescents. The subcommittee members agreed that it would be a useful goal to have every elementary-aged student view this film and participate in an education program about family violence. The subcommittee also discussed the advantages of developing an Internet site on family violence issues designed specifically for children.

The subcommittee discussed methods for workplaces and businesses to respond to family violence issues with their employees. Members discussed the development of a model curriculum for Employee Assistance Programs to use regarding family violence and related issues such as alcohol awareness. The subcommittee discussed the merits of sponsorship of family violence prevention efforts by corporations or business associations. The subcommittee recommended that strategies be formulated for businesses in dealing with family violence and its impact on the workplace. Information could be made available on the Internet sites as well.

To address these concerns, the subcommittee has endorsed the following recommendations:

- The Commission should encourage efforts to facilitate access by all Virginia's school children (including those in private and religious schools) to the family violence prevention video "It's Not Okay."
- The continuing resolution for the Commission on Family Violence Prevention should include a study of the role of the business community in the prevention of and response to family violence.

Subcommittee members reviewed some programs designed to prevent family violence through early intervention. Specifically, the subcommittee heard from administrators of Healthy Families programs in Martinsville and Hampton. The program's goal is to ensure that every child is born healthy and reaches school ready to learn. Particularly in Hampton, the project involves all sectors of the community by framing the intervention project as part of the city's economic development strategy - reducing costs by using early intervention to promote healthy development and ultimately a well-educated, well-trained, violence-free workforce. The subcommittee decided that one goal for the Commission would be to develop a way to facilitate community efforts to have programs like Healthy Families cover the entire state. Members also suggested that representatives of Healthy Families and other similar intervention programs should be encouraged to become part of local coordinating councils working on family violence prevention. To support this goal, the subcommittee made the following recommendation:

- The Commission should support a budget amendment to fund Healthy Family Projects.

Beyond the work of the Victim Services Task Group, the subcommittee also emphasized the importance of Victim Witness Assistance Programs (VWAP) and their role in serving victims. Staff of these programs often serve as an important source of information and support about victim compensation funds and other issues to many victims. Recent grant awards have resulted in better coverage of the state: approximately 86% of the Virginia population lives in an area served by a VWAP. The subcommittee noted that there are still sections of the state that remain unserved, particularly in the Shenandoah Valley and southwest Virginia. The subcommittee recommended that the Commission support DCJS's goal of 100% statewide coverage by Victim Witness Assistance Programs.

The subcommittee examined the issues of welfare reform and child protective services. The federal Public Law 104-193 regarding welfare reform contains language about an optional certification of standards and procedures to ensure that the state will screen for and identify domestic violence. The Commission drafted a letter to the Director of the Department of Social Services and the Governor requesting that Virginia evaluate its response to family violence victims in the context of welfare reform, including the options outlined above. (A copy of the letter to Governor Allend is included in Appendix H.) The subcommittee noted that welfare reform is a complex process and issues related to domestic violence are worthy of further attention and debate. The subcommittee also recommended that the Commission again examine the standard of evidence which applies to child protective services. The subcommittee encouraged the Commission continue to track these issues and provide information and input where appropriate.

An important part of the state's effort to combat family violence includes the training and grant programs managed by the Department of Criminal Justice Services. Members of the Department have been involved with the Commission at the Subcommittee and Task Group levels, contributing valuable perspectives. To further enhance the coordination between the work of the Commission and the Department of Criminal Justice Services, the subcommittee recommended that:

- The Continuing Resolution for the Commission on Family Violence Prevention should add the Director of the Department of Criminal Justice Services to the Commission membership.

LAW ENFORCEMENT SUBCOMMITTEE

The Law Enforcement Subcommittee, chaired by Attorney General James Gilmore, is charged with examining the law enforcement response to family violence incidents and determining methods to improve and support that response. This subcommittee has focused on the implementation of The Family Violence Prevention Bill, SB 113, which sets out a statewide arrest policy, requirements for law enforcement training and local policy development. This subcommittee has provided oversight for Senate Joint Resolution 69 which directs the Commission to "assure that training is provided for justice system professionals, including judges, Commonwealth's attorneys, law enforcement officers, clerks, intake officers, and magistrates, on the statutory provisions and procedures related to protective orders and stalking." The Subcommittee received testimony and discussed the correlation between drug/alcohol abuse and family violence.

Implementation of SB 113

Senate Bill 113, enacted in the 1996 session of the General Assembly, contained directives to the Department of Criminal Justice Services(DCJS) to develop standards of training to be used by law enforcement training academies and assure that all new officers receive minimum training related to family violence. Through its job task analysis, officer performance objectives will be developed that will then be used as the basis for curriculum development by law enforcement training academies. The standards were promulgated for public comment in December, 1996. DCJS and the Commission have made materials, curriculum information and list of speakers available to the academies.

In addition, the bill required that all local law enforcement agencies develop a policy that supports the arrest policy outlined in the bill. DCJS was asked to update its model policy related to family violence and make it available to all local departments. DCJS secured grant funding through the V-STOP grant to support eight regional training events designed to assist local departments in the development and implementation of policies to support implementation of SB 113.

The Commission provided presentations to over 20 statewide, regional and local professional and civic groups related to SB 113. Through these presentations a number of issues were identified. SB 113 makes provision for training for incoming or new officers, but does not provide for training for veteran officers. Staff of the Commission undertook a survey of the law enforcement training academies to determine what current training is provided to new officers and to veteran officers related to family violence. Training academy directors were urged to consider inclusion of materials related to family violence in their training for veteran officers.

Magistrates received six hours and the district court clerks three hours of training on implementation of SB 113 and stalking at their mandatory Fall Regional Training sessions. A

number of issues and concerns arose during those training sessions. (An overview of the training sessions is included in the appendices.) One such issue is the ability of magistrates and other court personnel to access the Virginia Criminal Information Network (VCIN) which is viewed as crucial to the ability of these persons to carry out their duties. For example, if magistrates do not have the history of a person who has had prior arrests and convictions, the magistrate will not make an informed decision regarding an appropriate charge in assault and battery of family members cases or in determining conditions of bond. The subcommittee discussed in detail concerns that both magistrates and judges have related to having sufficient and helpful information available to them at the point they determine conditions for release. Especially important is information that may indicate the likelihood of danger to the family and community posed by release of individuals. The subcommittee requested that the Commission solicit testimony from the Virginia State Police related to the current operation and access to VCIN.

The subcommittee identified four other areas of concern that they felt merited further attention: research and training related to setting appropriate bond conditions; assuring adequate services for victims of family violence; assuring the availability of mental health intervention for families experiencing violence; and providing additional victim/witness coordinators.

The Commission developed materials and publications designed to enhance implementation of SB 113 including a template for a small informational pamphlet that can be easily and inexpensively reproduced. The card contains information on criminal and civil remedies available to victims of family violence, statewide hot line numbers that victims can use to gain assistance and blank space that can be used to list local service numbers. This template was sent to all law enforcement agencies in the Commonwealth. The Commission continued to update and distribute to criminal justice and human service personnel the statewide listing of services for victims.

The subcommittee endorsed the following recommendations:

- Request the Virginia State Police to continue to pursue providing access to the Virginia Criminal Information Network (VCIN) system to all magistrates and other state agencies who need such information.
- Assure that the Department of Criminal Justice Services' Model Policy and training standards clarify the terms "primary physical aggressor" and "special circumstances."
- Encourage localities to require law enforcement personnel to report the presence of children when responding to domestic violence calls.

Training Task Group

The primary goal of the training task group was to ensure that the mandate of Senate Joint Resolution 69 was met. The resolution directs the Commission to "assure that training is provided for justice system professionals, including judges, Commonwealth's attorneys, law

enforcement officers, clerks, intake officers, and magistrates, on the statutory provisions and procedures related to protective orders and stalking.”

The task group was actively involved in the design and implementation of some of the training including the mandatory fall regional training events for the magistrates and clerks. The Commission developed "The Family Violence Reference Manual" that was used to provide background and as a work book for this training. Over 1,000 copies of the Reference Manual have been distributed. This manual will be updated for future use and distribution.

The task group and staff of the Commission served in an advisory capacity related to other training efforts including those for the chiefs of police, sheriffs and judiciary. An overview of training that occurred over the past year and comments received from participants is included in the appendices. Groups who were provided training included: Chiefs of Police, sheriffs, Juvenile and Domestic Relations District Court Judges, Circuit Court Judges, magistrates, district court clerks, and law enforcement training academy directors.

The staff of the Commission undertook a survey of state codes related to directives for training criminal justice personnel to determine what topics were included in such mandatory training and who was directed to receive the training. That survey is included in the appendices.

The task group received reports from Virginians Against Domestic Violence related to their training institute which was designed to train individuals who could then serve as resources and trainers for others, specifically for professional training events directed at law enforcement and criminal justice personnel. Their efforts will provide a pool of trainers for communities and professional groups as well as create a network to share new information and training materials. The first training institute was held in September, 1996 with 25 participants.

In October, 1996 the Commission convened a forum of local family violence coordinating councils. Representatives from 22 local councils participated. The attendees included law enforcement officers, magistrates, judges, commonwealth's attorneys, mental health professionals, domestic violence service providers and local social services professionals. The Commission developed a Community Planning Guide that was used as the basis for the event and has been made available to communities interested in establishing a local council. Attendees urged the Commission to host another forum and extend invitations to all communities.

The subcommittee endorsed the following recommendations:

- Provide additional training to justice system professionals regarding lethality assessments and conditions of release.
- Assure magistrates are regularly and consistently evaluated by the appropriate Circuit Court or General District Court and Chief Magistrate of their locality related to their knowledge of pertinent code sections, policies and procedures related to family violence; their cooperation with other community organizations and agencies; and their response and courtesy to the public.

- The Commission should be directed to assure further training to criminal justice personnel and human service providers.

The Correlation of Drug & Alcohol Abuse to Family Violence

At its first meeting, the subcommittee decided to examine the role accentuating factors play in family violence. The discussion focused on such factors as the effects of drug and alcohol abuse; financial stress; access to firearms; and the impact of family violence on children. The subcommittee decided to limit its focus to the correlation between substance abuse and family violence.

The subcommittee first heard from a substance abuse treatment specialist, Theodore Petrocci. He indicated that there is a strong correlation between substance abuse and family violence. He has found in his clinical work that individuals who abuse substances show a higher prevalence of aggressive and physically abusive behaviors, this is especially true of individuals who abuse alcohol. Mr. Petrocci discussed in some detail the dilemma of providing treatment to individuals who both abuse substances and are abusive in their relationships. He pointed out the difficulty in finding and scarcity of clinicians with expertise in both areas. He recommended better coordination between treatment providers. He also endorsed cross training so that substance abuse treatment providers can identify and properly refer people with family violence issues to appropriate providers and that family violence providers are trained in the recognition and referral of individuals with substance abuse issues. Mr. Petrocci also discussed the Drug Court model he has been working with and the efficacy of intervention programs that are tied to court ordered programs that require feed back to the courts and sanctions for non compliance.

The subcommittee received testimony from Sgt. Gibson of the Alexandria Police Department and Virginia Coscia from the Alexandria victim/witness program. According to Alexandria's data base between 17 - 20% of cases of family violence responded to by police involve alcohol or substance abuse. Both felt that this figure under-reported the involvement of alcohol and substance abuse in family violence cases. Law enforcement officers do not routinely note whether drugs or alcohol are involved in their calls and data systems do not collect this information. Both indicated that when drugs and alcohol are present, the cases are more difficult, complex and often pose more danger than when it is not.

Michael O'Connor, PhD., clinical director of the Henrico Community Services Board(CSB) indicated that 35% of the clients served by the CSB have a history of family violence. These clients seldom present for services because of the family violence, rather it is uncovered in the course of treatment for other issues such as depression or substance abuse. Dr. O'Connor indicated that in his experience and based on research, drug or alcohol abuse can serve as a trigger for violent episodes and should be treated, but the underlying power and control issues must also be treated. He estimates that there is a 40 - 50 % correlation between substance abuse and family violence. He recommends that when the issues are co-occurring, the substance abuse be treated first and then the individual be referred for treatment of the abusive

behaviors. After Henrico County adopted a mandatory arrest program, the CSB established a batterer intervention program for court referred individuals. The program has since become independent of the CSB and is funded by fees from the batterers. Dr. O'Connor indicated that about 50% of those ordered into the program complete the program. For those who complete the program, there is a very low recidivism rate. Dr. O'Connor highlighted the need for feed back with the courts and sanctions for non-compliance.

William T. McCollum, Executive Director of the Virginia Alcohol Safety Action Program (VASAP), provided the subcommittee with an overview of the structure and function of the VASAP program which provides services to individuals convicted of drunk driving. He indicated that there are 24 certified local programs across the state. These programs are locally designed and operated. They provide assessment, referral and case management for all cases referred to them by court order. The program is entirely offender funded based on fees. The Board of VASAP promulgates minimum program standards that must be adopted by the local programs. The VASAP program has a built in monitoring system through the Department of Motor Vehicles to assess for further traffic offenses. The subcommittee identified three elements that it felt were key to VASAP's effectiveness: the clear articulation of standards for local programs with associated training standards for service providers; all persons referred have been convicted of an offense; and there is consistent feed back to the courts related to compliance and a penalty for non compliance.

The subcommittee received updates from the Batterer Intervention Task Group since it was addressing similar issues. The subcommittee endorsed the following recommendation:

- Request a legislative study of the feasibility of establishing a mandatory statewide program similar to VASAP for persons convicted of family violence offenses. The study should address methods to recoup associated expenditures by requiring participants to pay a fee; assurance of coordinated and comprehensive services designed to address both substance abuse and family violence provided by local providers; and a mechanism to implement minimum standards of practice promulgated by the Commission on Family Violence Prevention regarding treatment providers, intake and discharge requirements.

Physical Evidence Recovery Fund

At the January 6, 1997 meeting, the Attorney General submitted a proposal to the subcommittee to create a Physical Evidence Recovery Fund to pay for procedures used to recover physical evidence in sexual assault cases. The subcommittee heard from Linda Curtis, Commonwealth's Attorney for the City of Hampton who indicated that she encountered serious problems assuring prompt payment to local health care providers who had submitted claims related to physical evidence recovery in sexual assault cases. She indicated that the procedures in place and used by the Supreme Court of Virginia to process these claims were cumbersome and difficult resulting in some unpaid claims. The subcommittee also heard from Stacey Lasseter and Bonnie Price of St. Mary's Hospital in Richmond, who described the role and

function of Sexual Assault Nurse Examiners. The subcommittee in its discussion concurred that there appeared to be technical problems related to the processing of claims. It was unclear as to whether there was a need to institute a fee to add to the amount available to pay claims. The subcommittee clarified that the fund would only be used for costs associated with evidence recovery and not cover treatment services to victims.

The subcommittee endorsed the following recommendations:

- Enact legislation to establish the Virginia Physical Evidence Recovery Fund to be administered by the Department of Criminal Justice Services. Funds designated for fees associated with the gathering of physical evidence in the appropriation for criminal charges should be transferred from the Supreme Court of Virginia to such fund.
- Direct DCJS to establish and administer guidelines for reimbursement of expenses related to sexual assault Nurse Examiner (SANE) Program.
- Amend statutory language to include offenses related to animate object sexual penetration and marital sexual assault to those qualifying for reimbursement by the fund.

LEGISLATIVE/JUDICIAL SUBCOMMITTEE

This subcommittee chaired by Delegate Linda “Toddy” Puller, continued to act as the clearing house for legislative issues brought to the task groups and other subcommittees of the Commission. It also provided oversight for the Commission’s efforts at tracking legislation related to family violence. Pursuant to Senate Joint Resolution 27 two task groups were established under the subcommittee: The Impact of Family Violence on Children and Effective Prosecution groups.

Impact of Family Violence on Children

Delegate Puller chaired this task group which was directed to study the impact of family violence on children. The task group began its work with a presentation by Roberta Valente, Director of the American Bar Association’s Commission on Domestic Violence which published the document “The Impact of Family Violence on Children”. Ms. Valente provided an overview of the work that led to the document, their findings and recommendations.

The task group next turned its attention to Virginia’s response to children living in violent homes, both when they are the victims of violence and when they witness violence between the adults in the household. The group heard from state and local child protective service (CPS) professionals, domestic violence service providers, law enforcement officials and a juvenile and domestic relations district court judge.

The task group heard a presentation from MaryAnn Dutton, PhD., a child psychologist who serves as a consultant to the District of Columbia’s Childrens Hospital and to the ABA. Dr. Dutton described the physical and psychological impact of violence on children. She emphasized that there is a range of response dependent on the frequency, intensity and involvement of the child in violent episodes between adults in the home.

The task group then examined the role of other key people in the identification and response to children living in violent homes including school social workers, school principals, guardian ad litem (GAL), court appointed special advocates (CASA) and mediators.

Based on the information presented and discussion, the task group agreed that the impact of violence within the home on children is significant and can include physical, physiological, social and even educational problems. Based upon their findings, the task group made the following recommendations:

1. Public Awareness
 - Include information in next year’s Statewide Public Awareness Campaign (SPAC) packet for children in abusive homes regarding how they can be safe;
 - Provide information to school systems regarding family violence including (1) impact of family violence on children, (2) understanding protective orders,

- custody and visitation orders, and (3) safety planning for children;
 - Request the Health Care Provider Task Group of the Commission include information on screening to identify children in abusive homes and safety planning for children in any materials recommended for distribution;
2. **Training/Information**
- Provide/Assure GAL training includes information on domestic violence and its impact on children;
 - Provide/Assure the judiciary receives information on the issues of domestic violence and its impact on children, to include:
 - (a) use of CASA in Family Violence cases,
 - (b) inquiring as to whether a child is present at the time of an incident of family abuse, if yes referring to CPS to assess the risk to the child of witnessing violence between the adults, and make recommendations to the family for using community resources to reduce the risk of future violence,
 - (c) use of court mandated treatment for abusive/assaultive adults,
 - (d) use of supervised visitation, and
 - (e) use of child protective order when adult requests dissolution of the adult protective order.
 - Examine CASA training standards regarding the detection of domestic violence in the home and its impact on children;
3. **Policy** - There should be a team approach to the domestic violence cases, including the courts, court service units, law enforcement, and Department of Social Services.
- Work with Department of Criminal Justice Services to include in their Model law-enforcement policy a requirement that officers inquire about children in the home and make a reporting of that information pursuant to the new reporting requirements under SB 113;
4. **Legislative**
- Support for the Family Court so all matters related to the same family are heard in one court;
 - Support use of civil protective orders in stalking situations involving people who do not meet the definition of family or household member under §16.-1-228 (dating situations);
5. **Resources**
- Support funding and policy to ensure computer access to VCIN for magistrates;
 - Enhancement of the DSS Multiple Response Pilot Project to incorporate attention to the identification of domestic violence when assessing a CPS complaint. It is anticipated that the project will not need legislation except to ask for funding to provide additional services to children who are affected by witnessing domestic violence in their homes. An important aspect of the pilot project is that it is anticipated to generate statistical information correlating incidents of domestic violence and the presence of children at the time of the violence. The goal is to encourage all divisions within DSS to work together, intra-agency, and work with community resources as well.

6. Other

- Research and evaluate issues within prison populations regarding their history of family violence; and
- Recommend that the Commission write a letter to the State Board of the Department of Social Services and the Secretary supporting DSS changing the standard of evidence in child abuse and neglect cases to preponderance of the evidence.

The task group felt it did not have sufficient time to examine issues related to custody and visitation when there is family violence present. They recommended that those issues be addressed by the Commission in the coming year.

Effective Prosecution

The goals of this task group included identifying training and resource needs of prosecutors in order to effectively respond to family violence; methods and techniques for working with reluctant witnesses; how to effectively coordinate efforts with other agencies and services; effective use of support and volunteer personnel; and case management, docketing and scheduling techniques in family violence cases. Staff conducted research to identify efforts underway elsewhere in the nation and developed materials that highlighted the key elements of those efforts. A copy of the chart of national efforts is included in the appendices.

The task group reviewed and discussed at length the need for prosecutors to be available in misdemeanor proceedings involving family and household members. It was determined that, in view of the additional resources allocated for Commonwealth's Attorneys to assure their availability in Juvenile and Domestic Relations District Courts in 1996, the Commission should closely monitor the impact on adult assault & battery cases heard in those courts to determine if any further resources are needed.

The task group heard from the Commonwealth's Attorneys Services Council on their current efforts related to training on domestic violence. The task group examined evidentiary techniques that assist in preparing cases as well as techniques and approaches for dealing with reluctant witnesses. They examined the use of "no drop" policies; "victimless" prosecution and efforts to compel a witness to testify.

The task group received presentations related to the use of victim/witness assistance programs and the availability of such services state wide as well as the involvement of volunteers with these cases. The task group identified the necessity of coordination with law enforcement, community social service and victim service support programs in these cases. The task group also identified the need to provide, to the extent possible, for the protection and safety of victims and their families. Use and enforcement of protective orders, provision of alarm systems to victims, and issuance of cellular phones were all endorsed by the task group. Contact was made with Virginia's cellular service companies who are willing to provide phones for victim safety.

These phones would be capable of dialing 911 and given to victims who are cooperating with prosecution of their abuser and are considered at high risk for further abuse. Commission staff is currently contacting law enforcement agencies and victim service providers throughout the Commonwealth regarding the availability of these phones and contact persons at the cellular phone companies.

Lastly, the task group had presentations from the Office of the Executive Secretary of the Supreme Court and local J&DR court clerks on methods for effective docketing of cases and the challenges of instituting these methods.

As a result of its study and work, the task group developed the following recommendations:

- . Support the inclusion of a chapter on the effective prosecution of family violence in the Commonwealth's Attorneys' Handbook. Include an appendix to serve as a Virginia Domestic Violence Case Finder. Provide assistance to the Commonwealth's Attorneys' Association and the Commonwealth's Attorneys' Services Council, in development of this chapter and associated training efforts, as requested.
- . Support improved court calendar management by:
 - Endorsing the Virginia Supreme Court's Office of the Executive Secretary's local calendar management project related to Juvenile and Domestic Relations Courts;
 - Encouraging use of Next Date Software by all courts;
 - Provide information to all clerks related to effective management of family violence cases, such as information about the Alexandria "rocket docket";
- . Support HB 150 (carry over legislation from 1996) disallowing accord & satisfaction for domestic violence cases;
- . Monitor the impact of increased funding for Commonwealth's Attorneys in J&DR courts on their availability for adult domestic violence cases.
- . Request that the Board of Bar Examiners add questions on domestic violence to the Bar Exam;
- . Assure magistrates have access to VCIN to improve bail and conditions of release decisions;
- . Continue tracking the domestic violence impact of a Virginia Code of Evidence being considered by the Boyd Graves Institute;
- . Direct law enforcement officers to include standard questioning at domestic violence sites as to whether there are children in the home, and include this information in their reports and take appropriate action;
- . Encourage law firms and Virginia State Bar members to offer pro bono assistance to victims of domestic violence who need/want to pursue civil actions;
- . Assure funding support for recruitment, training, supervision of volunteers who work with families experiencing domestic violence;
- . Create the option of emergency cellular phone service for victims in cooperation with law enforcement agencies across Virginia; and
- . Monitor Victim/Witness Program Assistance Grant allocation and encourage every

jurisdiction to apply for Department of Criminal Justice Services funding and create such a program.

Legislative Initiatives

The subcommittee has a standing task group, the Drafting Group, that reviews legislative issues brought forward from other subcommittees to begin to develop draft language. During the 1997 General Assembly Session, the Commission is presenting legislation on a variety of subjects that arose either from the work of the task groups or the information received at the public hearings. Additionally, there are some amendments to Senate Bill 113 from 1996 as suggested by interested parties. The City of Alexandria asked the Commission to support their legislative proposals. Although the Commission voted to support some of the legislation from the City of Alexandria, the Commission did not agree to support every aspect of the proposal. The following is a list of the legislation, reviewed by the Drafting Group, either supported or proposed by the Commission.

Amendments to SB 113

Amendments to SB 113 (enacted in 1996, SB 113 has a delayed effective date until July 1997 to allow for training and any required amendments)

- . § 16.1-253.1 - Add language regarding entering information into VCIN regarding Preliminary Protective Orders “as soon as practicable after service” and adds an entry of the date of service upon receipt of the return of service;
- . § 16.1-253.4 - Add language that provides only a law-enforcement officer may request the issuance of a verbal ex parte order; requires the issuance of an Emergency Protective Order when the respondent has committed assault and battery against a family or household member and there is likelihood of future such abuse; add language regarding entering information into VCIN regarding Emergency Protective Orders “as soon as practicable after service”;
- . § 16.1-279.1 - the language in the section regarding “full faith and credit” of foreign protective orders regarding filing “an affidavit, under oath, that to the best of such person’s knowledge the order is then in effect as written and upon such filing shall be enforceable as an order entered pursuant to this section.”
- . § 19.2-81.3 - the wording regarding the officer providing a report was changed to read that “a copy of the report shall be made available to the allegedly abused person.”

Impact of Family Violence on Children

- . Enhancement of the DSS Multiple Response Pilot Project to incorporate attention to the identification of domestic violence when assessing a CPS complaint. (See information under the Impact of Family Violence on Children Task Group.)
- . Support of the Family Court so that all matters related to the same family are heard in one court;

Victim's Compensation Task Group

- . Amend the language under the Compensating Victims of Crime, Chapter 21.1 of the Code of Virginia, to include in the definition of "victim, victims of stalking;
- . Clarify in statute that the CICF has the authority to request medical records from health care providers;
- . Recommend a legislative study of the Victim's Compensation system to study the structure and function of the fund as well as standards applied to the compensation of victims, including but not limited to victims of family violence;

Batterer's Treatment Task Group

- . Establish a program for Batterer Intervention Programs and develop minimum standards of practice, similar to the model of the Virginia Alcohol Safety Action Program(VASAP), to include established standards, fees and protocols;

Continuing Resolution for the Commission on Family Violence Prevention

- . Introduce a resolution to continue the Commission and add as members of the Commission the Commissioner of the Department of Health, Director of Department of Criminal Justice Services, and representatives of the business community and media;
- . Areas to be studied by the Commission
 - a. The Business Community's Involvement in the Prevention of Family Violence;
 - b. The Role of the Clergy in the Prevention of Family Violence;
 - c. The School System's Involvement in the Prevention of Family Violence;
 - d. Continue to study the Impact of Family Violence on Children;

City of Alexandria's Recommendations

- . Support the following legislation that is a portion of the legislation initiated by the City of Alexandria:
 - a. Elevate the crime of stalking from class 2 misdemeanor to a class one misdemeanor;
 - b. Create the crime "stalking with a deadly weapon" which will be punishable as a felony (possibly a class 6 felony);
 - c. Give General District Courts the powers of protective orders in cases of stalking (when the relationship falls outside of those defined as "family or household member");
 - d. Support Delegate Brian Moran's Bill, HB 150, which would not allow accord & satisfactions in cases of family or household member assault and battery;
- . Support a recommendation by the City of Alexandria that the Commission on Family Violence Prevention study the use of firearms in domestic violence situations and the incidents of other criminal behavior in domestic violence situations.

PUBLIC AND PROFESSIONAL AWARENESS SUBCOMMITTEE

The Public and Professional Awareness Subcommittee examined the public and professional communities' responses to victims of family violence. Raising the public's awareness concerning family violence is essential to fully addressing the issue. Similarly, effective identification and service for victims of family violence requires that professionals who interact with families have adequate knowledge about the services, resources and legislation available which deal with family violence prevention and treatment. Task groups and planning committees that focus on public and professional awareness about family violence supported the Public and Professional Awareness Subcommittee.

The Public and Professional Awareness Subcommittee concentrated on the:

- continuation and expansion of the Statewide Public Awareness Campaign (SPAC);
- response of health care providers to family violence;
- assistance in designing and implementing a family violence core curriculum for medical students; and
- involvement in planning a conference on family violence for physicians and other health care providers.

Statewide Public Awareness Campaign (SPAC)

For the second year, representatives from statewide victim advocacy organizations participated on the SPAC planning group. The organizations include Virginians Against Domestic Violence, Virginians Aligned Against Sexual Assault, Prevent Child Abuse Virginia, Virginia Coalition for the Prevention of Elder Abuse, Virginia Department of Social Services and the Family and Children's Trust Fund. The goal of this group was to develop the second edition of a public awareness kit containing statistics, hotline numbers, and public service announcements on family violence. All materials contained in the packet were prepared in a reproducible format that can be used in a variety of media. The SPAC packet, entitled *Together Against Violence*, is the result of a unique collaborative effort toward the prevention of child abuse, domestic abuse, elder abuse, dating violence, sexual assault, and stalking. Distribution of the packets began in August, with over 5000 packets sent out by the end of October.

Based upon the success of the 1995 and 1996 packets, the subcommittee recommended the following:

- The Commission should continue its support of the Statewide Public Awareness Campaign by continuing to serve as the convener of the planning committee of the SPAC Packet. Next year's packet should include information on the impact of family violence on children and other pertinent populations.
- The Commission should investigate the availability of public and private funds allocated for statewide public awareness efforts about family violence, including those available through the Family and Children's Trust (FACT) Fund.

- The Commission should expand the Statewide Public Awareness Campaign planning committee to include members from the Health Department.

Health Care Provider Task Group

Physicians, nurses, dentists, and other community health professionals comprised the Health Care Provider Task Group. They began their work by hearing from Joanne Tullonen of the Maryland Physician's Campaign Against Family Violence, which has produced response guides for nurses and physicians relating to domestic violence and child maltreatment.

The task group examined the family violence identification and response processes currently used by the health care systems in Virginia. The group determined a need for a model core protocol that professionals could use to assist them in identifying and referring patients who need services and assistance related to family violence to the appropriate agencies. Using the protocols for child abuse and neglect developed by Dr. Joseph Zanga, the task group outlined a protocol which included a domestic violence assessment intake form. This form includes information on personal history, medical history, the physical exam, evidence collection, danger assessment screening, and safety planning.

The group also determined a need for an additional component in the SPAC packet: a victim information template for use in printing small cards containing information about identification and services related to family violence. Medical professionals in many different settings could distribute the cards to patients identified as potentially needing information and services about family violence.

The task group determined that health care providers need education to help them identify and refer persons who may be experiencing family violence. The group reviewed options, including a variety of videos and printed materials, and decided that self-education materials would afford the most effective way for the providers to learn about family violence. These materials would require a supporting reference guide, and it was determined that expanding the Family Violence Reference Manual, used in training, would meet this need. This would create a document which was contained information specific to health care providers as part of a comprehensive reference resource. Staff was directed to develop these items.

Because health care costs related to family violence victimization are considered substantial, the task group considered the determination of such costs incurred in Virginia to be an important component in understanding the impact of incidences of family violence on the health care industry and community in general. The task group learned of the report, "Victim Costs and Consequences: A New Look," prepared by the National Institute of Justice and directed the staff to review the report and determine the medical care costs resulting from victimization through family violence in the Commonwealth.

Based upon the work of this task group, the subcommittee recommended that:

The Commission should develop a model core protocol and victim information template that could be adapted for use by physicians, dentists, and those in the health care settings of hospitals, emergency medical services, and home health care.

- The Commission should investigate the availability of self-education materials about family violence -- including a video tape and manual -- that could be distributed to and used by health care providers.
- The Commission should conduct an analysis of the costs of health care resulting from family violence in Virginia.

Family Violence Curriculum for Medical Students

The Family Violence Curriculum for Medical Students planning committee consists of representatives from the Commission and all three of Virginia's Medical Schools: Dr. John deTriquet from Eastern Virginia Medical School, Dr. Marcello Fierro from the Medical College of Virginia, and Dr. Christina Peterson from the University of Virginia. The committee began by examining where each school is in the development and use of family violence curricula. The committee determined the need to develop a family violence curriculum which will include core content areas on family violence identification, early intervention and prevention. After the development is complete, each medical school can adopt the curriculum and offer it to interns and residents as part of their educational requirements. To facilitate the assimilation and use of the curriculum, the committee expressed a need for the Commission to sponsor a symposium for medical school faculty which introduces the curriculum.

To effectively support the work of the Family Violence Curriculum for Medical Students planning committee, the subcommittee recommended that:

- The Commission should continue to facilitate meetings of the committee and should continue to generate support from the three medical schools and other community medical resources.
- Upon completion of the family violence curriculum for medical students, the Commission should convene a symposium to provide information concerning the curriculum to the faculty members of the three medical schools.

Conference Involvement

To enhance awareness of family violence issues in the medical community, the Commission is involved with a statewide medical conference on family violence in conjunction with the Forensic Nursing Institute of the University of Virginia. The Commission will participate in a Physicians' Awareness Day highlighting the cycle of abuse and resources available for victims of abuse.

The Commission will continue to support planning committees for conferences on family violence by attending meetings, arranging speakers, and generating support and services from the medical schools and other community service providers.

ACKNOWLEDGEMENTS

The work of the Commission throughout the year was assisted by several organizations and individuals. Their efforts exemplify their concern for Virginia's families. The Commission gratefully acknowledges their support and looks forward to future collaboration.

Virginians Against Domestic Violence
Virginians Aligned Against Sexual Assault
Prevent Child Abuse Virginia
Virginia Coalition for the Prevention of Elder Abuse
Virginia Department of Social Services
Family And Children's Trust
Bureau of Justice Assistance, U.S. Dept. of Justice
Office of the Executive Secretary, Supreme Court of Virginia
National Council of Juvenile and Family Court Judges
Senate Committee Operations
House Committee Operations
Legislative Services
Department of Criminal Justice Services
The City of Alexandria
Robert N. Baldwin
Susan Berry
Carmella Bills
Caitlin Bitto
Stephanie Bitto
Heather Bond
David Brisendine
Central Region Office, Department of Social Services
Christopher Newport University
Sarah Cooke
Larry Davidson
Jodie Fridley
Patti Hargrave
John Jarvis
Robley Jones
Anne Leigh Kerr
Andrew Kiser
Jennifer Knobe
Terri Long
Shari Lowenthal
Maggie Luca

Kate Morosoff
Ruth Reynolds
Senator Charles S. Robb
Daniel Rodgers
Claire Russell
Rich Savage, C.B.
Mike Spence
Porter Thayer
The University of Virginia
Virginia Association of Chiefs of Police
Virginia Commonwealth's Attorneys' Association & Services Council
Virginia Law Library
Virginia Magistrates' Association
Virginia Sheriffs' Association
Virginia State Police
Senator John Warner
Liesl Wilke

Special thanks goes to the citizens who testified before the Commission over the past year. Their courage provides inspiration for the Commission's work. Their important contribution is gratefully acknowledged.

1996 SESSION

965824833

SENATE JOINT RESOLUTION NO. 27

Offered January 16, 1996

Continuing the Commission on Family Violence Prevention.

Patrons—Howell, Benedetti, Couric, Earley, Gartlan, Houck, Lucas, Maxwell, Stolle, Stosch, Ticer and Woods; Delegates: Almand, Behm, Cranwell, Darner, Fisher, Jones, D.C., Keating, Kilgore, Melvin, Mims, Plum, Puller, Scott, Thomas, Van Landingham, Van Yahres, Wardrup, Watkins and Woodrum

Referred to the Committee on Rules

WHEREAS, in FY 1994 in Virginia, 29,805 women and 8,640 children were provided services through domestic violence programs; 5,477 new victims sought services through sexual assault crisis centers, 42% as victims of assault by a family member; 14,101 cases of child abuse or neglect were substantiated; and 5,984 cases of abuse, neglect or exploitation of the elderly were substantiated; and

WHEREAS, 17.4% of the homicides occurring in Virginia in 1994 involved victims who were family members of a boy friend or girl friend of the killer; and

WHEREAS, there is a need to further support a coordinated community response to family violence that will assure an efficient and comprehensive approach; to increase public and professional awareness of the complex dynamics of family violence and its prevention; to train and offer technical assistance to communities and professionals who handle issues of family violence; to collect, analyze and disseminate data and information regarding family violence; and to analyze existing policies, services and resources and determine what is necessary to prevent and treat family violence; and

WHEREAS, the Virginia Commission on Family Violence Prevention has made strides in addressing the problems caused by family violence, but much work remains to be done; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Commission on Family Violence Prevention continue to study family violence in the Commonwealth to: (i) determine the impact of family violence on children, (ii) examine the availability and accessibility of services and resources to victims of family violence, (iii) investigate the development of standards for effective Batterer Treatment programs, (iv) examine effective prosecution techniques, and (v) determine services, resources and legislation which may be needed to further address, prevent and treat family violence.

Members of the Commission shall continue to serve and any vacancies shall be filled in the same manner as the original appointment except that any vacancy occurring in a judicial appointment shall be filled by appointment of the Senate Committee on Privileges and Elections. One additional juvenile and domestic relations court judge and two additional citizens representing the media and organizations involved in family violence issues shall be appointed by the Speaker and two additional citizens representing the media and organizations involved in family violence issues shall be appointed by the Senate Committee on Privileges and Elections. The Chairman of the Commission shall be a member of the General Assembly; and, be it

RESOLVED FURTHER, That the legislative members of the Commission shall constitute an executive committee which shall direct the activities of the Office of the Commission on Family Violence Prevention.

The direct costs of this study shall not exceed \$12,950.

The Division of Legislative Services and the Office of the Commission on Family Violence Prevention shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the Commission upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1997 Session of the General Assembly as provided in the procedures of the Division of Legislation Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

COMMUNITY RESPONSE SUBCOMMITTEE:

Lt. Governor Don Beyer, Chair
Delegate Melvin, Co-Chair
Wilbert Bryant, Deputy Secretary of Education
Betty Wade Coyle
Judge Donald Kent, Alexandria Circuit Court
Commissioner Timothy Kelly, DMHMRSAS
The Hon. Paul Ebert, Commonwealth's Attorney, Prince William County
Carl Cassell, Magistrate, Alexandria
Walt Credle, Hampton Dept. of Social Services
Candace Feathers, Family Violence Services Coordinator, Virginia Beach
Judge Dale Harris, 24th District J&DR Court
Rosemary Harris, Magistrates's Association
Sheriff Terry W. Hawkins, Albemarle County
Patricia A. Jackson, Richmond
H. Lane Kneedler, Hazel & Thomas, P.C
Col. George E. Kranda, Herndon Police Department
Cartie Lominack, Charlottesville
Mandie Patterson, DCJS Victim's Services Section
Brig. Gen. Reals, USMC Retired, Arlington
Linda Sawyers, Director, School of Social Work, VISSTA
Judge Strickland, Roanoke City Circuit Court
Kristi Van Audenhove, VADV

LAW ENFORCEMENT SUBCOMMITTEE:

Attorney General Gilmore, Chair
Senator Stolle, Co-Chair
Chief Justice Carrico, Supreme Court of Virginia
Judge Helvin, 16th General District Court
Laurie Frost, Lorton
Pat Groot, VAASA
Judge David Melesco, Franklin J&DR Court
O.P. Pollard, Director, Public Defenders Commission
Chief Bennett, Chief, Lynchburg Police Dept.
Gary Byler, Virginia Beach
Michael Clatterbuck, Magistrate, Verona
Detective M. J. Coker, Portsmouth Police Dept.
Deb Downing, DCJS
Linda B. Knowles, Glen Allen
Bruce Morris, Deputy Secretary of Public Safety
Josephine Phipps, Friends of Norfolk Juvenile Court
Sheriff Robert P. Stanaway, Gloucester County
The Hon. Toby Vick, Commonwealth's Attorney, Henrico County

Kareene Wood, RCDV
Marcy Wright, VA Peninsula Council on Domestic Violence

LEGISLATIVE/JUDICIAL SUBCOMMITTEE:

Senator Edd Houck, Co-Chair
Delegate Toddy Puller, Co-Chair
Barbara Hickey Klear, Portsmouth
Patricia West, Director, Dept. of Juvenile Justice
Commissioner Clarence Carter, VA Dept. of Social Services
Judge Joan Skeppstrom, Norfolk J&DR Court
Ruth Micklem, VADV
Barbara Rawn, PCAV
Betty Jo Anthony, VA Women's Attorneys' Association
Delegate Jean Cunningham
William W. Davenport, Commonwealth's Attorney, Chesterfield
Sgt. Ray Greenwood, Va Beach Police Department
Susan Keilitz, National Center for State Courts
Larry Pochucha, VTLA
Janice Redinger, VAASA
Dana Schrad, VA Assoc. of Chiefs of Police
Iris Tucker, Chief Magistrate, Christiansburg
Sheriff E. C. Walton, King & Queen County

PUBLIC AWARENESS SUBCOMMITTEE:

Delegate Cranwell, Co-Chair
Judge Roy Willett, Co-Chair
Judge Moon, Court of Appeals of Virginia
Judge Wellington, Prince William J&DR District Court
Delegate Vivian E. Watts
Jean Brown, Leesburg
Mattie C. Burley, Magistrate
Chief Philip A. Broadfoot, Waynesboro Police Dept.
Sheriff Stanley S. Clarke, Essex County
Commissioner Randolph Gordon, Dept. of Health
Margaret Brewer, FACT
Peter Easter, VA Association of Broadcasters
Dr. David Gould, Richmond
Sibley Johns, VAASA
Dr. Marybeth Hendricks Matthews, Richmond
Beblon Parks, VEA
Johanna Schuchert, PCAV
Ginger Stanley, VA Press Association
Robin Thomas, VADV
Becky Weybright, VAASA

APPENDIX C. MEMBERSHIP OF TASK GROUPS

BATTERER INTERVENTION STANDARDS

***Judge Dale Harris**, 24th District J&DR Court
***Candace Feathers**, Family Violence Services Coordinator, Virginia Beach
Sheila Crossen-Powell, Family Violence Prevention Program, Richmond
Melinda Douglas, Alexandria
Sherrie Goggins, VADV Resource & Education Director
Mark Hastings, CSB, Loudoun Mental Health
Will Jarvis, Assistant Commonwealth's Attorney, Pittsylvania County
Diane Maloney, MHMRSAS
Steve Miller, Family Services of Roanoke Valley
Frank Nelson, Men's Anger Control Group, Richmond
Linda Nisbet, DSS Spouse Abuse Program
Lisa Oviatt, ACT Program, Alexandria
Becky Sirles, Victim Services, VA Dept. of Corrections
Pat Sodo, ACTS/Turning Point
R. Lester Wingrove, Chief Probation & Parole Officer, Williamsburg
George Wooditch, Alexandria

DATA

***Patricia A. Jackson**, Richmond
Molly Carpenter, VA Dept. of Health
Sarah Cook, Dept. of Psychology, UVA
Lt. George L. Crowder, III, Records Management Officer, VA State Police
Judy English, VA DSS
Jackie Smith Mason, Virginia Criminal Sentencing Commission
Ken Mittendorf, MIS Dept., Supreme Court of VA
Linda Nisbet, VA DSS
Janet Warren, Institute Law Psychiatry & Public Policy
Betty Barrett, Clerk, Norfolk J&DR Court
Arlene Rager, Clerk, Alexandria J&DR Court

EFFECTIVE PROSECUTION

The Hon. Paul Ebert, Commonwealth's Attorney, Prince William County
BettyJo Anthony, Chief Deputy Commonwealth's Attorney, Roanoke
Barbara Balough, Poindexter & Schorsch, P.C.
Gary Byler, Virginia Beach

Judge Frank Ceresi, Arlington
Virginia Coscia, Victim-Witness Program, Alexandria
Virginia Duvall, Assitant Commonwealth's Attorney, Chesterfield
Walter Felton, Commonwealth's Attorneys' Services Council
Sgt. Ray Greenwood, Virginia Beach Police
Sheriff Joseph Higgs, Jr., Fauquier County
The Hon. John Kloch, Commonwealth's Attorney, Alexandria
H. Lane Kneedler, Hazel & Thomas, P.C.
Judge Donald Lemon, Richmond Circuit Court
Sylvia McCollum, Citizen member
Lewis Powell, III, Hunton & Williams
Arlene Rager, Clerk of the J&DR Court, Alexandria
Stacy Ruble, DCJS
Anne Van Ryzin, Mt. Vernon Ctr.
Bill Shannon, Chief Magistrate for Richmond
Marcy Wright, VA Peninsula Council on Domestic Violence

HEALTH CARE PROVIDERS

Brenda Boisseux, RN
Bonnie Dattel, MD, Dept. of OBGYN, EVMS
Christina Delzingaro, The ARC of Charlottesville
David Gould, MD
Allie Rudolph, Dept. of Family Medicine, UVA Health Sciences Center
Johanna Schuchert, Prevent Child Abuse Virginia
Hilda Woodby, Ph.D., RN
Diane Helentjaris, MD, Direcotr, Dept. of Public Health, County of Loudoun
Dr. Marcella Fierro, Chief Medical Examiner
Olivia Garland, MH Management Division, Trigon
Shari L. Ball, DDS
Don Harris, Senior Vict President, Inova Health System
Margaret Jarvis, MD, MCV
Peggy Spicer, RN
Barbara Parker, Ph.D., RN, UVA School of Nursing

IMPACT OF FAMILY VIOLENCE ON CHILDREN

***Delegate Linda T. Puller**
Ruth Chamowitz, Chamowitz & Chamowitz, Alexandria
Walt Credle, Hampton DSS
Victoria W. Dullaghan, Vellines, Cobbs, Goodwin & Glass, Staunton
Robert Eliot, Family Law Section, Virginia State Bar
Keith Gostel, Richmond

Edward H. Holmes, Jr., Norfolk Court Services
Michelle Kang, Fredericksburg
Rita Katzman, Virginia DSS
Commissioner Timothy Kelly, DMHMRSAS
Diane Maloney, DMHMRSAS
Sheriff A. D. "Toby" Matthews, Henrico County
Charlotte McNulty, Harrisonburg/Rockingham CSB
Ruth Micklem, VADV
Ruth E. "Betty" Murphy, Alexandria
John Oliver, Chesapeake City Attorney's Office
ElizaBeth Owen, Committee for Mother & Child Rights
Holly Peters, Roanoke Legal Aid
Frank Rackley, Magistrate
Nancy Ross, Commission on Youth
Karen Schrader, Prevent Child Abuse Virginia
The Hon. Charles S. Sharp, Commonwealth's Attorney, Fredericksburg
Detective Keith Sidwell, Roanoke City Police
The Hon. Philip Trompeter, 23rd District J&DR Court
Dr. Alice Twining, Virginia Beach
Robert B. Whytal, Virginia Dept. of Education

STATEWIDE PUBLIC AWARENESS CAMPAIGN

Margaret Brewer, FACT
Anne Childress, Community Services Section, DSS
Joy Duke, VA Coalition for the Prevention of Elder Abuse
Cindy Gricus, PCAV
Linda Nisbet, DSS Spouse Abuse Program
Phil Parish, DSS Community Services Section
Porter Smith-Thayer, Graphic Presentations
Robin Thomas, VADV
Betsy Usery, Virginia CASA
Becky Weybright, VAASA
Harriet Russell, Commission on Family Violence Prevention

TRAINING

***Linda Sawyers, VISSTA, School of Social Work**
Det. Greg Beitzel, Henrico County Police
Diana Burlison, APRI
Carl Cassell, Magistrate
Deb Downing, DCJS
Claire Dunn, Alexandria DV Program

Bonnie Griffith, Navy Family Services Cente
Judge Dean Lewis, Spotsylvania J&DR Cour
Gail Maddox, Henrico County Mental Health
Judge Kim O'Donnell, Richmond J&DR Court
Marybeth Pulsifer, Women's Resource Center
Peggy Sullivan, ACTS/Turning Points

VICTIM COMPENSATION

***Pat Groot**, VAASA
Elizabeth Bernhard, Director, Victim Witness Assistance Program, Chesterfield
Sarah L. Cook, Dept. of Psychology, UVA
David N. Grimes, Pittsylvania Co. Commonwealth's Attorney
Will Jarvis, Assistant Commonwealth's Attorney, Pittsylvania County
John Mahoney, Office of Victim Services, DCJS
Ruth Micklem, VADV
Janice L. Redinger, VAASA

VICTIM SERVICES

***Kristi VanAudenhove**, VADV
Linda Bean, Isle of Wight DSS
Janet Forte, Chesterfield
Connie Kirkland, Sexual Assault Services, George Mason University
Lee-Hope Thrasher, Victim/Witness Program, Virginia Beach
Cartie Lominack, Shelter for Help in Emergency, Charlottesville
Kathy Frodie, Lutheran Council of Tiedwater

State Agency Liaisons:

Angela Burke, Virginia Department of Health
Nan Mckikenny, DSS Child Protective Services
Linda Nisbet, DSS Spouse Abuse Program
Mandie Patterson, DCJS Victim Services Section
Terri Smith, DSS Adult Services

APPENDIX D. 1996 LEGISLATIVE INITIATIVES

- I. Senate Bill 113 - Arrest Policy Recommendations
- II. Senate Bill 113 - Protective Orders Recommendations
- III. Additional Legislative Items
 - SB 485
 - SJ 27
 - SJ 69
 - Budget Amendments

SB 113 Family Violence Prevention Bill 7/97 Implementation

is bill contains amendments directed at civil protective orders and arrest policies and includes amendments to § § 9-170, 16.1-243, 16.1-245.1, 16.1-253, 16.1-253.1, 16.1-253.2, 16.1-253.4, 16.1-3.14, 16.1-279.1, 16.1-296, 16.1-296.2, 16.1-298, 18.2-57.2, 18.2-60.3, 18.2-308.1:4, 19.2-81, 2-81.3, 20-103.

Arrest Policy Recommendations

<i>Problems / Issues</i>	<i>Amendments to the Code</i>
Training	Require training for law enforcement personnel through DCJS training standards;
Arrest for violations of protective orders	Allow for an officer to arrest without a warrant for a violation of a protective order; Require mandatory arrest unless there are special circumstances that would dictate a course of action other than an arrest upon a finding of probable cause that a violation of a protective order has occurred;
Arrest for assault & battery of family or household member	Require mandatory arrest unless there are special circumstances that would dictate a course of action other than an arrest upon a finding of probable cause that assault & battery against a family or household member has occurred;
Release on summons	Require that if an arrest is made; the individual arrested will be taken into custody and brought before a magistrate for charging
Conditions of release	Require the issuance of an Emergency Protective Order as a condition of release by a judge or magistrate when they issue a warrant or when they hold the bond hearing;

Arrest decisions	Require the officer responding to submit a written report identifying the primary physical aggressor and including any special circumstances that would dictate a course of action other than an arrest.
Victim safety	<p>When there is family abuse present the officer may arrange transportation for a victim if requested by the victim to a hospital, shelter or magistrate,</p> <p>Require the officer to petition for an emergency protective order if there are reasonable grounds to believe probable danger exists for further acts of abuse.</p>
Victim services	Provide victims with information about the legal and community services available. (A template for an information card is being distributed to all law enforcement agencies.)
Local policies	<p>Requires local law enforcement agencies develop policies that support the implementation of this section;</p> <p>the policies will include guidelines on:</p> <ul style="list-style-type: none"> • identification of the primary physical aggressor; • filing of reports; • transportation for victims; and • information provided to victims.

Protective Orders Recommendations

<i>Problems / Issues</i>	<i>Amendments to the Code</i>
Purpose of the orders	<p>Use consistent language stating that the purpose of these orders is to protect the health & safety of victims and their children;</p> <p>Maintain as a possible condition for consideration in the permanent orders the ability to order abusers into treatment.</p>
Use of orders to prevent serious injury	<p>Use the standard of family abuse as the basis for orders;</p> <p>"Family abuse" is defined in 16.1-228 - any act of violence, including any forceful detention, which results in physical injury or places one in reasonable apprehension of serious physical injury and which is committed against such person's family or household member.</p>
Providing access to protective orders	<p>Allow magistrates to issue Emergency protective orders on a direct petition from a victim.</p>
Avoiding lapses in protection	<p>Extend the length of emergency orders to 72 hours or until 5 PM the next business day that the J&DR court is in session, whichever is longer.</p> <p>Assure access to the courts for modification or dissolution by the respondent.</p> <p>Extend the length of permanent orders not to exceed 2 years.</p>

<p>Enhance enforceability</p>	<p>Clarify language in the Emergency Orders & Permanent Orders sections so that it is clear orders are issued based on a need to protect the petitioner and that conditions focus on the behaviors of the alleged abuser.</p> <p>This would not preclude the respondent of an order from filing his/her own petition which would then be dealt with as a separate action.</p>
<p>Specific and comprehensive relief</p>	<p>In the permanent and preliminary orders, include consideration of allowing a victim sole use of a jointly owned motor vehicle if the circumstances dictate such to assure safety.</p> <p>Only in the permanent order, after a full hearing; include consideration of temporary custody & visitation as a possible condition.</p> <p>Include family & household members under the umbrella of protection in 16.-253 and stalking.</p>
<p>Safety at the point of separation</p>	<p>Include and treat orders issued pursuant to 20-103 as the other protective orders; violations treated as a misdemeanor heard in J&DR court and orders entered into VCIN</p>
<p>Violations treated as serious acts with clear and predicable consequences</p>	<p>Require that a person found guilty of a "no contact", "no trespass" or "no further abuse" condition of an order be required to spend some time in jail. The length of the sentence would be discretionary and could be as short as a few minutes.</p>

Additional 1996 Legislative Items

SB 485 - Enforcement of Protective Orders Issued by other states.

Directs that protective orders issued by other states or tribal courts will be given full faith & credit in Virginia. Reasonable notice and an opportunity to be heard must have been provided to the subject of the order by the issuing state. Law enforcement officers may rely on a copy of the order to act to enforce it; victims may bring orders to the J&DR court in order to file them and have them entered into VCIN. The orders should be enforced even if they have not yet been filed in Virginia.

SJR 27 directs the Commission on Family Violence Prevention to:

- Expand its membership to include an additional J&DR District Court judge and four citizen appointees;
- Assess the impact of family violence on children;
- Examine the availability and accessibility of services and resources to victims;
- Investigate the development of standards for effective Batterer Treatment programs; and
- Examine effective prosecution techniques; and determine services, resources and legislation which may be needed to further address, prevent and treat family violence.

SJR 69 directs the Commission to:

- assure that training is provided for justice system professionals on the Code provisions and procedures related to protective orders and stalking using materials the Commission has developed and report back to the 1997 General Assembly and the Governor on the results of its training efforts.

Budget Amendments:

- \$310,000/annum to establish services for victims of family violence where none exist.
- \$90,000/FY96; \$85,000/FY97 to expand the statewide hotline to serve victims of sexual assault.
- Increased funds to support additional Commonwealth's Attorneys in J&DR Court.

For further information contact Harriet Russell, Executive Director of the Commission on Family Violence Prevention at 804-692-0375.

**APPENDIX E. RATIONALE, RECOMMENDATIONS AND OVERVIEW OF
BATTERER INTERVENTION PROGRAM STANDARDS**

Rationale for Certification Standards:

The development of minimum certification standards for batterer intervention programs providing court-ordered services should be designed to:

- 1) foster uniformity in the philosophical and practical approach to the treatment of abusive partners
- 2) assure that batterers will receive services that hold them accountable for their behavior and that maximize the safety of victims and their children
- 3) provide criteria against which the performance and efficacy of a program can be measured and the need for programmatic changes assessed
- 4) promote inter-agency communication and collaboration regarding batterer rehabilitation and victim safety

Recommendations regarding Batterer Intervention Program Standards:

On the basis of its work and research, the Batterer Intervention Standards Task Group recommends the introduction of a resolution directing the Commission on Family Violence Prevention to develop minimum standards of practice which addresses core elements identified by the Commission's task group, reporting back to the Commission their recommendations. The Task Group expects that the resulting standards will be used as certification standards for batterers intervention programs in the Commonwealth of Virginia. The composition of the group convened to develop the standards shall reflect a commitment to a cooperative and collaborative interagency approach to the problem of batterer rehabilitation and its membership shall consist of, but not be limited to: 1) one member with expertise in the treatment of batterers, 2) one from a center/shelter which provides services to domestic violence victims and their children, 3) one Commonwealth's Attorney designee, 4) one certified/licensed addictions treatment professional, 5) one Public Defender designee, 6) one Department of Corrections designee (Adult Probation and Parole), 7) one Department of Social Services designee, 8) one Department of Health designee, 9) one Department of Mental Health, Mental Retardation, and Substance Abuse Services designee, 10) one law enforcement professional, and 11) one Department of Criminal Justice Services designee. The minimum standards developed by this group shall include each of the core intervention program elements listed in the following outline.

Core Intervention Program Elements:

A. Program Philosophy and Purpose: Research suggests that the following principles underlie effective batterer intervention programs (Feldman & Ridley, 1995)

- 1) Violence is never justified
- 2) Domestic violence is multidetermined and therefore requires a multicomponent intervention
- 3) Domestic violence is a learned behavior, and therefore can be changed
- 4) The primary target of behavioral change is VIOLENCE, not indirect behaviors, emotion, or attitudes such as low self-esteem or substance abuse
- 5) The safety of victims and their family members is paramount, and the intervention program must focus on maximizing abuser accountability, behavioral change, and prevention of further abuse
- 6) Alcohol and/or substance abuse is not a cause of battering, but if present is a serious factor which must be considered

B. Group Type and Structure: In light of research highlighting the superiority of group treatment to other treatment approaches with batterers, all of the minimum standards shall concern group interventions and shall focus on aspects of the group structure and process which maximize its impact on behavioral change and recidivism.

- 1) Group Type: Intervention groups must be violence-specific rather than generic in content and must address issues and dynamics unique to domestic violence (e.g. cycle of violence, causes of violence, conflict resolution skills).
- 2) Group Composition: The minimum standards shall define the population targeted by the intervention program and encourage appropriate services for male and female abusers.
- 3) Group Structure: The minimum standards shall delineate the expected range of treatment duration, the appropriate group size (as expressed in a range), and acceptable admission procedures (e.g. rolling, fixed).

C. Group Fees:

- 1) Fee Structure: All programs shall be funded, at least partially, by payment of fees by the batterer/participant. The minimum standards shall address the acceptable range of fees.

2) Provisions for Indigence: The minimum standards shall recommend criteria for establishing indigence of batterers/participants and appropriate alternatives to payment for services for individuals meeting these criteria (e.g. community service, delayed repayment).

D. Provider Qualifications: While minimum standards for provider qualifications are essential to the provision of uniformly effective and competent services, these standards must recognize the need for different levels of qualifications for direct service providers and supervisory personnel. In addition, certification standards regarding provider qualifications must differentiate between the qualifications required of psychoeducators versus those of clinical providers. Thus, position-specific qualification standards for providers shall be developed in addition to the following requirements, which are to be extended to all providers:

1) Domestic Violence History: Staff members/providers must be violence-free in their own lives. No program shall hire a perpetrator of domestic violence unless that individual has successfully completed a certified batterer's intervention program and has remained violence-free for a period of at least 3 years.

2) Substance Use/Abuse: Staff members/providers must be free of an ongoing substance abuse problem or involvement in substance abuse program. Current use of drugs/alcohol must not impair the provider's ability to function as a responsible and competent professional

3) Criminal History: Potential staff shall not have engaged in conduct resulting in a criminal conviction deemed to impair the individual's ability to provide services. Potential staff with criminal convictions (felony or misdemeanor) may be hired if the program director is satisfied that the potential staff member can function as a professional and has remained crime-free for a period of at least 5 years.

4) Educational/Training Requirements: The Commission shall delineate the minimum standards for provider education and/or training necessary for commencement of service provision. These standards shall address the appropriate range of educational degrees for providers, the range of on-the-job experience equivalent to a formal degree, and the minimal requirements for the length and content of in-service/on-the-job orientation and/or training required of all new providers.

5) Staff Racial/Ethnic Composition: In order to provide culturally, racially, and linguistically appropriate services, intervention programs shall hire staff/providers whose cultural/racial backgrounds reflect those of the individuals within the community served.

6) Provider Employment Status: Programs may rely upon staff members/providers who are either paid employees or volunteers.

E. Continuing Education and Training: The minimum standards must address the appropriate range of content matter, site(s)/providers of continuing education training, and the optimal length/number of units of annual continuing education and training necessary for all providers.

F. Intake Procedures: The certification standards shall provide a uniform framework for intake procedures and content.

1. **Intake Assessment:** The standards shall include a standardized assessment instrument that will serve as a core assessment tool to which programs may append their unique measures or information collection tools. The standards shall also specify the maximal allowable time lag between referral and intake (and procedures for advising the court in cases where the delay is excessive)
2. **Victim Contact:** The standards shall address the purpose and range of possibilities, as well as the nature and frequency of victim contact required of individual intervention programs (including safety planning).
3. **Contract of Participation:** The standards shall identify the core content of participant contracts, including, but not limited to, a confidentiality clause and duty to warn provision, a program-specific statement of program philosophy and expectations, and a description of sanctions for non-compliance
4. **Confidentiality Waiver:** The standards shall outline the conditions under which provider/participant confidentiality may be waived, including provision of information to other social service agencies and criminal justice in cases of suspected or reported suicidal or homicidal plans or acts, child abuse, elder abuse.
5. **Alcohol and/or Substance Abuse:** The standards shall address the identification and referral for offenders who present alcohol and/or substance abuse for better coordination of batterer intervention programs and substance abuse programs.

G. Non-compliance and Feedback with Courts:

1. **Criteria for non-compliance:** The standards shall enunciate uniform standards for what constitutes non-compliance and the behaviors resulting in referral back to court or referring agency
2. **Feedback system:** The standards shall mandate the use of a standard referral form in cases of non-compliance, create an options list for points of contact between providers and judicial system, clarify the consequences of non-compliance (no diversion, only judicial sanctions), and recommend that court clerks prioritize processing of standard referral forms and docketing cases of non-compliance. All of these efforts will serve to

standardize communications between providers and the court, facilitate processing of non-compliant referrals, minimize subpoenas of providers to court in these cases, and foster swift sanctions for non-compliance.

H. Program Certification, Monitoring, and Evaluation:

1. Program Certification: The standards shall establish policies and procedures for application for certification, renewal of certification, requirements for certification, and the conduct of site visits/inspections as part of the certification process.

SUPPORTING INFORMATION - APPENDIX E.

- I. National Trends in Batterer Treatment Program Certification
- II. Nation Program Certification Elements Related to Protection and Safety of Victims
- III. National Program Certification Elements Related to Program and Abuser Accountability
- IV. National Program Certification Elements Related to Effective Community Response
- V. National Trends in Program Certification Related Specific Procedural Issues
 - A. Provider Qualifications, Monitoring & History
 - B. Indigent Clients, Assessment Instruments & Communication with Courts

NATIONAL TRENDS IN BATTERER TREATMENT PROGRAM CERTIFICATION
(Status as of 12/1/95)

STATE	STATUTE MANDATING TREATMENT (Yes/No)	CERTIFICATION STANDARDS (Yes/No)	REGULATORY AGENCY
Alabama	No	No	
Alaska	No	Yes, for funded programs only	Department of Public Safety, Council on Domestic Violence and Sexual Assault, E.F. Arnaud, Sec. (907)465-4356
Arizona	No	No	
Arkansas	No	No	
California	Yes, Treatment mandated when probation is granted or when sentence is suspended	Yes Statewide standards, with each county responsible for implementing standards	Orange County San Diego County Santa Clara Co.
Colorado	Yes, All offenders are evaluated and referred to treatment only when evaluator recommends treatment	Yes	State Commission appointed by Supreme Court Steve Siegel Dir. of Program Development Denver District Attorney's Office 303 W. Colfax #1300 Denver, CO 80204 (303)640-5176

Connecticut	No	No	
Delaware	No	No	
District of Columbia	No	No	
Florida	Yes, Attendance of a batterers' intervention program required in cases of injunctions for protection against domestic violence	Yes	Department of Corrections Office of Monitoring and Certification Paul Balthrop, Program Projects Director (904)921-2168
Georgia	No	No	
Hawaii	Yes, Domestic violence treatment required if court sentences offender for misdemeanor abuse of family member or refusal to comply with order to leave premises	Under development	
Idaho	No	No	
Illinois	No	No Illinois Department of Public Aid does maintain suggested protocol for batterers' treatment programs	Illinois Department of Public Aid Karen Sachse 100 S. Grand Ave. E. Springfield, IL 62762-0001 (217)524-6034
Indiana	No	Under development	

Iowa	Yes, Treatment required in addition to confinement or deferred sentence	Yes	Department of Corrections Ann Hill (515)281-4690
Kansas	No	No	
Kentucky	No	Yes, for programs funded by DMHMRS	Dept. of Mental Health and Mental Retardation Services Carol Jordan 275 E. Main, 1st Floor Frankport, KY 40621 (502)564-4448
Louisiana	No	No	
Maine	Yes	Under development	
Maryland	No	No	
Massachusetts	No, Judge may recommend that offender attend recognized program	Yes, For programs certified by the Department of Public Health	Department of Public Health Helene Tomlinson 150 Tremont St. Boston, MA 02111 (617)727-7222
Michigan	No	No	
Minnesota	No	No Voluntary standards exist	
Mississippi	No	No	
Missouri	No	No	

Montana	No	Under development	
Nebraska	No, Department of Social Services is directed to provide programs to appropriate cases	No, Lincoln and Lancaster Counties have drafted proposed standards	
Nevada	No	Under development	
New Hampshire	No, Court may grant relief in the form of batterers' treatment or personal counseling focused on alternatives to aggression	Under development	
New Jersey	No	No	
New Mexico	No	Under development	
New York	No	Under development	
North Carolina	No, But new statute takes effect 10/1/96	Under development	
North Dakota	No	Under development	
Ohio	No	Under development	
Oklahoma	No	No	
Oregon	No	No	
Pennsylvania	No	No Voluntary standards exist	

Rhode Island	Yes, Attendance at a program with "demonstrated expertise in domestic violence" required in addition to probation, sentence, or other mandated treatment	Under development	
South Carolina	?	?	
South Dakota	No	No	
Tennessee	No	No	
Texas	No	Yes, For programs funded by Texas Department of Criminal Justice	Department of Criminal Justice (512)305-9330
Utah	No, Participation in domestic violence program licensed by Department of Human Services may be mandated in addition to other penalties	Yes, For programs licensed by Utah Department of Human Services	Department of Human Services LeRoy Franke 120 N. 200 W. Salt Lake City, UT 84145-0500 (801)538-4242
Vermont	No	No	
Virginia	No	No	
Washington	No	Yes, For state certified treatment programs	Department of Social Services and Health Bernie Gerhardt (360)664-0591

West Virginia	No, Terms of protective order may include directing respondent to counseling	Under development	
Wisconsin	No	No	
Wyoming	No	No	

PROTECTION AND SAFETY OF VICTIMS

STATE	VICTIM CONTACT	CONFIDENTIALITY WAIVER	INTAKE
Alaska	<ul style="list-style-type: none"> •Each program must conduct safety checks with the victim once a month (minimum). Checks should be done by program staff or victim services advocate •V's statements during these checks are confidential •V must be informed of all aspect of program, including B's attendance and limitations of program in effecting change in B's behavior •V should be educated about advocacy services, shelters, support groups, etc. 	<ul style="list-style-type: none"> •In a client contract between B and program, B signs a confidentiality waiver that authorizes release of necessary information to criminal justice system and the victim 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Assessment of past/current violence •Assessment of substance use and mental status •Review of police records, legal pleadings and court order •Victim interview
California	<ul style="list-style-type: none"> •V should be informed of BT program's requirements and resources •V must be informed of all aspect of program, including B's attendance and limitations of program in effecting change in B's behavior •All communications with V are confidential unless authorized by V •V shall be provided with client contract and number of probation officer and referring court •Written and verbal statements regarding V's responsibility to evaluate safety of remaining in relationship must be received by V 	<ul style="list-style-type: none"> •In a client contract between B and program, B signs a confidentiality waiver that authorizes release of necessary information to criminal justice system and the victim 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Review of court referral documents
Colorado	<ul style="list-style-type: none"> •Contact with V should be made through V advocate or V's therapist •All information provided by V is confidential •All providers must be competent in the development of safety plans for victims 	<ul style="list-style-type: none"> •In a client contract between B and program, B signs a confidentiality waiver that authorizes release of necessary information to court system and the victim 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Fact Sheet: basic demographic information •Psychosocial history: substance use, social, developmental, family history •Arrest report and victim statement •Assessment of lethality <p>Note: Long and short evaluations are offered, depending on program and the B</p>

PROTECTION AND SAFETY OF VICTIMS

<p align="center">Florida</p>	<ul style="list-style-type: none"> •BT program staff must contact victim if B is rejected for services after initial intake 	<ul style="list-style-type: none"> •During initial intake, B signs contract which explains limits of confidentiality and notifies him/her that information may be shared with victim, probation, or courts in certain situations 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Assessment of violence history and current status (lethality) •Assessment of suicide risk •Assessment of substance use •Assessment of life stress •Assessment of relationship status <p>Note: This assessment is structured by a uniform assessment instrument developed and distributed by the Department of Corrections</p>
<p align="center">Iowa</p>	<ul style="list-style-type: none"> •Program staff shall attempt to contact V, with this contact including issues such as safety, protection orders, shelters, and legal advocacy. •V shall be informed of B's start date and his/her status at termination •V shall be informed of right to call to inquire about B attendance •B will have no access to reports of V contacts unless signed release is obtained 	<ul style="list-style-type: none"> •In a client contract between B and program, B signs a confidentiality waiver that authorizes release of necessary information to criminal justice system and the victim 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Basic demographic information •Assessment of violence history and current status (lethality) •Assessment of current substance use and mental status •Review of court/criminal history •Voluntary victim interview
<p align="center">Kentucky</p>	<ul style="list-style-type: none"> •V may be contacted to verify non-violence of B during program •Program staff must document changes in B lethality and must alert victim and law enforcement immediately upon noting significant changes in threatening or violent behavior 	<ul style="list-style-type: none"> •During initial intake, B signs contract and general release of information form which explains limits of confidentiality and notifies him/her that information (regarding progress, threats, or violent behavior) may be shared with victim, probation, or courts in certain situations 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Mental Status Exam and diagnostic assessment •Assessment of substance use •Assessment of violence risk and lethality •Psychosocial history •Criminal history •Review of police report

PROTECTION AND SAFETY OF VICTIMS

<p>Massachusetts</p>	<ul style="list-style-type: none"> •Each program shall inform victim or current partner about the program and its limitations •Each program shall inform V of B's status while in program, including level of cooperation and perceived lethality •Program must inform V that his/her participation in BT program is voluntary and confidential and that he/she may refuse contact or participation 	<ul style="list-style-type: none"> •In a client contract between B and program, B signs a confidentiality waiver that authorizes release of necessary information to criminal justice system and the victim 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Assessment of violence history and current status (lethality) •History of B's personal interactions •Family history (B's family of origin) •Assessment of current substance use
<p>Utah</p>	<ul style="list-style-type: none"> •Each program must comply with "duty to warn" statutes in order to protect victim •Inclusion of V & B in same group is prohibited •Program may also contact V to obtain information regarding frequency and duration of violence, B's lethality, risk factors for B violence, and B's mental status 	<ul style="list-style-type: none"> •During initial intake, B provides written consent to treatment 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Clinical interview to assess diagnosis and treatment needs (and to review treatment history) •Review of police incident report and criminal history •Interview with victim
<p>Washington</p>	<ul style="list-style-type: none"> •Program shall notify V of B's acceptance or rejection for services and of changes in B lethality •Program shall encourage V to make safety plan to protect self and children •Program shall education V about availability of outreach, emergency, and advocacy services offered by local victim programs •All V information is confidential, and program shall encourage V to contact law enforcement in event of reoffense 	<ul style="list-style-type: none"> •In a client contract between B and program, B signs a confidentiality waiver that authorizes release of necessary information to court system and the victim 	<p>Intake Assessment Includes:</p> <ul style="list-style-type: none"> •Assessment of violence history and current status (lethality) •Assessment of access to victim •Assessment of history of threats, ideation, or performance of homicidal or suicidal acts •Complete diagnostic evaluation •Substance use assessment

PROGRAM AND ABUSER ACCOUNTABILITY

STATE	CONTRACT	FEEDBACK WITH COURTS	SANCTIONS
Alaska	Contract Includes: <ul style="list-style-type: none"> •Confidentiality waiver •Agreement to be violence-free •Payment of court/child and program costs •Program standards and regulations •Responsibility to disclose violations •Prohibition of couples' therapy until B is violence-free for 6 months 	<ul style="list-style-type: none"> •Open communication with court, probation, and law enforcement agencies •B non-compliance or any act of violence requires notification of courts 	<ul style="list-style-type: none"> •Program must notify court and request revocation if the B is court-mandated •Non-compliance with program may result in premature discharge
California	Contact Includes: <ul style="list-style-type: none"> •Description of program •Agreement to be substance-free •Statement regarding grounds for discharge •Agreement to maintain group confidentiality •Statement of limits of confidentiality 	<ul style="list-style-type: none"> •Programs must provide probation dept with periodic progress reports (fee payment, attendance, and compliance info) •Probation has sole authority to approve or cease new referrals to a BT program •Programs must renew court approval annually 	<ul style="list-style-type: none"> •B returned to court system upon court's finding that probation may be terminated on statutory grounds (violence, non-compliance)
Colorado	Contract Includes: <ul style="list-style-type: none"> •Agreement to remain violence and crime-free •Agreement to remain substance-free •Agreement to meet financial & family obligations •Statement of acceptance of responsibility for behavior •Agreement to actively participate •Limits of confidentiality 	<ul style="list-style-type: none"> •BT program must report violent threats and acts to criminal justice authorities •BT must report lack of response and/or absences to referral agency 	<ul style="list-style-type: none"> •BT must contact court officials to initiate revocation of probation or a deferred or suspended sentence if B continues to exhibit signs of violence at termination
Florida	Contract Includes: <ul style="list-style-type: none"> •Attendance policy •Suspension and termination criteria •Program rules •Limits of confidentiality •Statement of provider expectations and perpetrator accountability •Release of information 	<ul style="list-style-type: none"> •BT program must provide immediate feedback to courts regarding premature discharge •Court has sole authority to authorize change of groups 	<ul style="list-style-type: none"> •Premature termination or discharge will take place in event of violent behavior, failure to attend or participate, and/or attendance under the influence of substances •BT program must inform referral source and victim of premature discharge within 3 days
Iowa	Contract Includes: <ul style="list-style-type: none"> •Review of program obligations, rules, and expectations 	<ul style="list-style-type: none"> •BT programs must report any threats or acts of violence and/or violation of "no contact orders" 	<ul style="list-style-type: none"> •BT programs must have the knowledge or access to the process to initiate requests for revocation hearings

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PROGRAM AND ABUSER ACCOUNTABILITY

<p align="center">Kentucky</p>	<p>Contract Includes:</p> <ul style="list-style-type: none"> •Program philosophy •Rules regarding attendance, participation, and payment •Agreement to be violence-free •Release of information to allow contact with victim and other collateral informants 	<ul style="list-style-type: none"> •BT program must provide regular reports to court regarding treatment progress 	<ul style="list-style-type: none"> •Routine case review is suggested-- should assess degree of responsibility assumed by B, current safety of victim, and potential lethality
<p align="center">Massachusetts</p>	<p>Contract Includes:</p> <ul style="list-style-type: none"> •Description of program (duration and rules) •Agreement to be substance-free •Agreement to comply with program rules •Confidentiality waiver forms 	<ul style="list-style-type: none"> •BT must report to court any non-compliance in way that maintains victim safety and confidentiality 	<ul style="list-style-type: none"> •BT program has the option to require Bs to re-enroll and repeat program •Each program is required to have readmittance policy in writing •Non-compliance may result in further court action
<p align="center">Utah</p>	<p>Contract Includes:</p> <ul style="list-style-type: none"> •Rules of program •Description of services and fees •Authorization to serve and obtain emergency care for B 	<ul style="list-style-type: none"> •BT program must review and renew cases every 3 months •Each BT program must have written procedures for notifying court and fostering sanctions for non-compliance, violence, or premature discharge 	<ul style="list-style-type: none"> •BT program must communicate with court in order to foster court-mandated sanctions (BT program must be able to provide treatment plan and evaluation of progress toward treatment goals)
<p align="center">Washington</p>	<p>Contract Includes:</p> <ul style="list-style-type: none"> •Agreement to be violence-free •Agreement to exhibit noncontrolling and nonabusive behavior •Development of a responsibility plan •Acceptance of group rules •Confidentiality forms 	<ul style="list-style-type: none"> •BT program reports to lawyers, courts, parole, probation, Child Protective Services, and Child Welfare Services •BT program shall use consistent procedures to notify the court of premature discharge 	<ul style="list-style-type: none"> •The program shall establish and implement written policies regarding consequences of reoffense and non-compliance with program rules

EFFECTIVE COMMUNITY RESPONSE

STATE	GROUP TYPE	FEES	SPECIAL SERVICES
Alaska	<ul style="list-style-type: none"> •Psychoeducational group format •24 week minimum 	<ul style="list-style-type: none"> •Sliding scale fees •Failure to pay = noncompliance 	Not Addressed
California	<ul style="list-style-type: none"> •Psychoeducational lectures, classes, group and counseling •32 weekly sessions within 9 months 	<ul style="list-style-type: none"> •Sliding scale fees •Indigent B may negotiate deferred payment schedule if nominal fee can be paid •Court may waive nominal fee •Fee is condition of probation if court determines B can pay it 	Not Addressed
Colorado	<ul style="list-style-type: none"> •Psychoeducational group format (90 minutes) •Individual therapy (50 minutes) and/or couples therapy •Minimum of 36 weekly sessions 	<ul style="list-style-type: none"> •Sliding scale fees •Court determines indigence--if B is indigent, nominal fee is assessed •B should be admitted to program regardless of ability to pay fees 	<ul style="list-style-type: none"> •Currently developing programs for female batterers and gay and lesbian batterers and victims
Florida	<ul style="list-style-type: none"> •Psychoeducational group format (same gender groups only) •Open/rolling admission policy •Minimum of 24 group sessions, resulting in total of 36 program hours 	<ul style="list-style-type: none"> •Sliding scale fees may range from \$5 to \$50 per session •B must also pay one-time \$30 participation fee 	Not addressed
Iowa	<ul style="list-style-type: none"> •Psychoeducational group format •Duluth Men's Education Program Model is to be implemented by each program •Each group must have male and female co-facilitators •24 weekly sessions is recommended, at minimum, 16 sessions with 2 classes on each theme 	<ul style="list-style-type: none"> •Judicial District Dept. of criminal services or BT program establish fees •B should be admitted to program regardless of ability to pay fees. Community service, along with nominal fee, can be offered in lieu of full fee payment 	<ul style="list-style-type: none"> •Groups for female batterers are in development--women can not be placed in men's groups •Groups for gay and lesbian batterers and victims are also under development. Each program will be responsible for providing specialized staff for these groups.
Kentucky	<ul style="list-style-type: none"> •Violence-specific group or individual therapy or psychoeducational group format •At the minimum, the program must involve 16 weekly 1 hour sessions 	<ul style="list-style-type: none"> •Fees determined by BT program •Fees can be assessed on a flat rate or individual service basis 	Not Addressed

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EFFECTIVE COMMUNITY RESPONSE

<p align="center">Massachusetts</p>	<ul style="list-style-type: none"> •Psychoeducational group and/or individual counseling •Groups of same gender only •15 people/group maximum •80 hours total (1.5 - 2.0 hrs/session) 	<ul style="list-style-type: none"> •Programs may charge up to \$3500/person for all services •Sliding scale fees •Deferred payment schedule for B who cannot afford nominal fee 	<ul style="list-style-type: none"> •Each program must meet the needs of those with disabilities (TTY and physical accommodations are necessary)
<p align="center">Utah</p>	<ul style="list-style-type: none"> •"treatment must comply with generally accepted practices in current domestic violence literature" •Program must last at least 12 weeks (1 hour/week minimum) 	<p align="center">Not Addressed</p>	<p align="center">Not Addressed</p>
<p align="center">Washington</p>	<ul style="list-style-type: none"> •Psychoeducational group •Minimum of 26 weekly sessions and monthly meetings until 12 month period expires •Program can define treatment period 	<p align="center">Not Addressed</p>	<p align="center">Not Addressed</p>

STATE	PROVIDER QUALIFICATIONS	MONITORING AGENCY	HISTORY BEHIND GUIDELINES
Alaska	<ul style="list-style-type: none"> •co-facilitators are recommended, with one of these being from a victim advocacy program. •Staff must be violence-free and must have not prior felony or drug convictions •Staff must have 40 hours of training by a local victim advocacy agency and at least one year experience working with victims and perpetrators. 	<ul style="list-style-type: none"> •Dept. Of Public Safety 	<ul style="list-style-type: none"> •Standards for practice apply to programs which are funded by the Department of Public Safety
California (Santa Clara)	<ul style="list-style-type: none"> •therapists must have bona fide CA credentials qualifying them to work with Domestic Violence Diversion Clients •credentials may include: 1)LCS, 2)LMFCC, 3)licensed clinical psychologist with two years of experience dealing with perpetrators and/or victims of violence •staff must also have specific knowledge regarding spousal abuse, child abuse, sex abuse, substance abuse, the law, and/or the legal process 	<ul style="list-style-type: none"> •Probation Dept. (conducts at least one annual on-site visit with programs) •Standards are statewide, but each county is responsible for implementing standards 	<ul style="list-style-type: none"> •Domestic Violence Council formed the subcommittee on Certification of Batterer Treatment Programs, and this subcommittee worked in conjunction with probation department to formulate standards. These standards have been used to certify programs, and the Probation Department now refers defendants to only those programs who adhere to these standards (standards included in Penal Code section 1000.93). •Standards are minimal standards for all programs wishing certification. If more than one program is certified in a single jurisdiction, the Probation Dept. determines to which program the perpetrator is referred.

Colorado		<p>Local councils monitor adherence to minimum standards established by interdisciplinary state commission</p> <p>•Standards are regulated by the State Commission (which is appointed by Supreme Court)</p>	<p>•Statute requires all those convicted of any crime related to domestic violence to complete an evaluation, and if this evaluation yields a recommendation of referral to treatment, the person shall be ordered to complete a certified treatment program</p> <p>•Section 18-6-803: Commission responsible for developing standards for treatment of perpetrators: Commission includes following members appointed by the Chief Justice of the state Supreme Court: 1) 2 District Attorneys, 2) two experts in treatment of DV perpetrators, 3) one rep from the probation department, and 4) one provider who service DV victims. Commission must meet at least semiannually to review standards and revise as deemed necessary. Commission is voluntary, with no state funds required to support its efforts.</p> <p>•Certification process: Chief judge in each judicial district must appoint a local board which is designed to certify and monitor treatment programs for individuals convicted of the crime of domestic violence. This board includes: 2 victim services personnel, one person from law enforcement, one person from probation department, one community member, one mental health professional, and one person from state or county department of social services. Board shall certify treatment programs according to program adherence to Colorado standards for treatment of perpetrators (section 18-6-803) and shall review these programs annually</p>
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<p>Florida</p>	<p>Each <i>facilitator</i> must have:</p> <ul style="list-style-type: none"> •bachelor's degree and •78 hours of direct contact facilitating or co-facilitating batterers' groups using the power and control model, and •40 hours of victim-centered training which can include providing advocacy to battered women and their children, conducting groups for these victims, attending victim panels, or any other training where victim issues are discussed. •Facilitator must complete a 19 hour state-approved course on batterers' intervention •Must engage in continuing education: 12 hours of total CE annually <p>In lieu of bachelor's degree:</p> <ul style="list-style-type: none"> •2 yrs of experience with direct contact with abusers and victims •78 hours of direct service facilitating batterer's groups (see above) •40 hours of victim-centered training (described above) <p>Each <i>supervisor</i> must have:</p> <ul style="list-style-type: none"> •Master's degree plus one year of direct service with victims or batterers (or B.A. with 3 years experience) •78 hours facilitation •40 hours victim-centered training 	<p>Dept. Of Corrections, Office of Certification and Monitoring of Batterers' Intervention Programs</p>	<ul style="list-style-type: none"> •Dept. standards were based on minimum certification standards developed by the Commission on Minimum Standards for Batterer's Intervention Programs •This commission was created by the legislature in response to the recommendation of the Governor's Task Force on Domestic Violence and was appointed by the Governor •In response to minimum standards developed by the Commission, legislators established the Office of Cert. and Monitoring of Batterers' Intervention Programs •Florida statute states that the purpose of certification is to "uniformly and systematically standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for the victims of domestic violence." •Certification under these standards is permissive and not a mandatory requirement for batterer's intervention programs. Florida law expresses a preference for such programs, but provides judge with the discretion to send a batterer to a program that is 'best suited' to the individual
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Iowa	<ul style="list-style-type: none"> •facilitators must be violence-free in own lives and must not act in ways that perpetuate sexism, racism, homophobia, or victim blaming •all facilitators must 1)complete pre-service training on dynamics of domestic violence and an overview of Duluth Model Batterer's Education Program, 2)observe a minimum of three batterer's education program classes, 3)participate in ongoing training that is Dept. approved 	Department of Corrections	<ul style="list-style-type: none"> •developed as standards for batterer's programs •designed to establish minimum level of services and responsibilities expected from service providers and to assist judicial districts in evaluating programs and planning for program improvements
Kentucky	<ul style="list-style-type: none"> •Funded programs must be staffed by qualified mental health professionals, including board-certified psychiatrist, licensed clinical psychologist, certified psychologists, and psychological associates, psychiatric nurses or registered nurses meeting certain education/experience requirements, psychiatric social worker, or mental health associate •clinicians must receive specialized training 	Dept. Of Mental Health and Mental Retardation Services	<ul style="list-style-type: none"> •designed to be implementation guidelines •guidelines apply to programs funded by the Department

<p>Massachusetts</p>	<ul style="list-style-type: none"> •All supervisory staff must have training and experience in working with abusers and victims of domestic violence (each program must have 1 staff with 3 or more yrs. experience) •Each staff person must complete minimum of 24 hours of training on D.V. from a Dept-approved batterer's intervention program and must observe at least 6 treatment sessions •Staff must be violence-free in own lives, and those with history of domestic violence must have completed a certified batterer treatment program and must have been violence-free for 3 years •Staff must be reflective of ethnic and linguistic minorities within communities served. •Program must provide ongoing training and regular clinical supervision. 	<p>Department of Public Health</p>	<ul style="list-style-type: none"> •New statutory provisions allow for judge referral of defendant to recognized batterer treatment program. •Recognized programs are certified by Dept. Of Public Health after evaluation by Dept. •Programs are certified based on geographic need and in manner which avoids duplication of services. Duplication of services is sometimes allowed after special review. •Same statutory provisions set up a commission headed by Chief Administrative Justice Mason to "develop guidelines and standards for certification" •Guidelines were developed and then modified by the Dept. after input from providers •Guidelines are meant to be minimum standards, w/certification being valid for 2 years
<p>Utah</p>	<ul style="list-style-type: none"> •Staff requirements listed in the Department's categorical standards for outpatient treatment standards •Mental Health staff: licensed physician, licensed psychologist, licensed clinical social worker, licensed psychiatric nurse, licensed marriage and family therapist, person with grad. degree in counseling, nursing, family therapy, social work or psychology with at least one year of full time related experience, or a licensed social services worker with at least three years of full-time experience 	<p>Dept. Of Human Services, Office of the Director of Domestic Violence</p>	<p>No information</p>

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<p>Washington</p>	<p>Paid and/or volunteer treatment staff must:</p> <ul style="list-style-type: none"> •have a B.A. or four years' experience equivalent to a B.A. •be registered as counselors or certified as mental health professionals as required under WA code •be free of criminal convictions involving moral turpitude •have completed a minimum of 30 hours of training in DV from an established DV program and 30 hours of training from an established DV perpetrator program or an out-of-state DV perpetrator program which would meet WA standards •each staff person providing direct service must complete a minimum of 250 hours of combined, supervised direct treatment contact with perpetrators or victims of DV <p>Each program must also have at least one person providing supervision (master's level, with 500 hours of supervised service, 3 yrs. experience working with perpetrators and victims of DV, and 1 year experience in group facilitation..</p>	<p>Dept. Of Social Services and Health</p> <p>(No statute re: mandatory treatment of batterers)</p>	<p>No information</p>
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STATE	INDIGENT CLIENTS	ASSESSMENT INSTRUMENTS	COMMUNICATION WITH COURTS
Alaska	<ul style="list-style-type: none"> •sliding scale permissible--fees must be collected to cover all available services offered by program 	<ul style="list-style-type: none"> •no standardized assessment instruments 	<ul style="list-style-type: none"> •no specifics
California	<ul style="list-style-type: none"> •all programs shall have a sliding scale for payment •program fees may be set to absorb costs associated with serving indigent clients •fees may be one factor probation officer considers in choosing program to which individual will be referred 	<ul style="list-style-type: none"> •Standardized intake or assessment instrument has been developed: Includes Domestic Violence Inventory, Domestic Violence Assessment (historical factors) •Termination evaluation not developed/standardized, but standards do specify topics that must be included in reports to Probation Department 	<ul style="list-style-type: none"> •Probation Department is primary contact between program and legal system: dept. must receive written report regarding progress every 60 days and must be contacted immediately if individual is non-compliant
Colorado	<ul style="list-style-type: none"> •sliding scale is permissible, but all referred individuals must pay for evaluation and/or treatment •Clients are deemed indigent only if they are seeking employment or pursuing vocational counseling or training and are committed to treatment program. Indigent clients may pay nominal fee and/or be required to perform in-kind service useful to the treating agency 	no specifics	no specifics
Florida	<ul style="list-style-type: none"> •"A fee for services, no matter how minimal, will be assessed and paid by the batterer." •Community service shall be ordered by the court if the participant cannot pay for services. •Recommended weekly fees range from \$5 to \$50. Florida statute also requires a one time fee of \$30 to be assessed on each court-ordered participant. 	<ul style="list-style-type: none"> •Intake includes some standardized pieces: Assessment Form (historical factors), Substance Abuse Screening, Mental Status Examination, Victim Contact Form •Termination evaluation is largely unstandardized: Victim Follow-Up Form is a standardized component 	<ul style="list-style-type: none"> •No specifics

Iowa	<ul style="list-style-type: none"> •"All batterers shall be charged for participation in batterer's education programs" •Fees shall be based on sliding scale or some alternative system that accommodates inability to pay. All batterers shall be accepted for services regardless of their ability to pay. •Batterers may perform community service in lieu of fees, but must pay a nominal fee for programming. 	<ul style="list-style-type: none"> •No standardized intake assessment materials--5 topics are specified which must be included in intake 	<ul style="list-style-type: none"> •Standards require programs to maintain cooperative relationships with local DV projects and must work with the project to establish parameters of monitoring and to develop a process for utilization of feedback. •BT and DV project must meet periodically to discuss problems re: monitoring and criminal justice system •BT must work with Judicial District Dept. Of Correctional Services to develop procedures for conveying decisions re: treatment appropriateness & compliance to court
Kentucky	<ul style="list-style-type: none"> •clients must pay for services on sliding scale or according to a flat rate •These fees are the primary source of reimbursement for perpetrator treatment, and payment of fees may be stipulated in the treatment contract and/or the court order. 	<ul style="list-style-type: none"> •Guidelines stipulate that programs must develop and implement programs to evaluate and measure drop-out, dismissal, and program completion rates •Standardized intake procedures not stipulated, but topics to be covered are delineated •Progress reports are not standardized, but guidelines stipulate routine case review to monitor treatment progress 	<ul style="list-style-type: none"> •BT must provide regular reports to the court and prosecutor regarding perpetrator's course of treatment
Massachusetts	<ul style="list-style-type: none"> •participants may negotiate deferred payment or partial payment when they demonstrate inability to pay program's lowest fees •failure to pay or to negotiate a payment schedule should be reported to Chief Probation Officer or the referring court. 	<ul style="list-style-type: none"> •No standardized intake assessment--guidelines suggest topics to be covered during intake •No standardized evaluation instruments (progress)--must evaluate participation, lethality 	<ul style="list-style-type: none"> •"each program shall establish a working relationship with the courts and particularly their probation and family service departments, as well as with local police departments." •BT must report threats or acts of violence to police dept. and probation dept.
Utah	<ul style="list-style-type: none"> •No specifics 	<ul style="list-style-type: none"> •No standardized intake/termination assessment instrument 	<ul style="list-style-type: none"> •No specifics

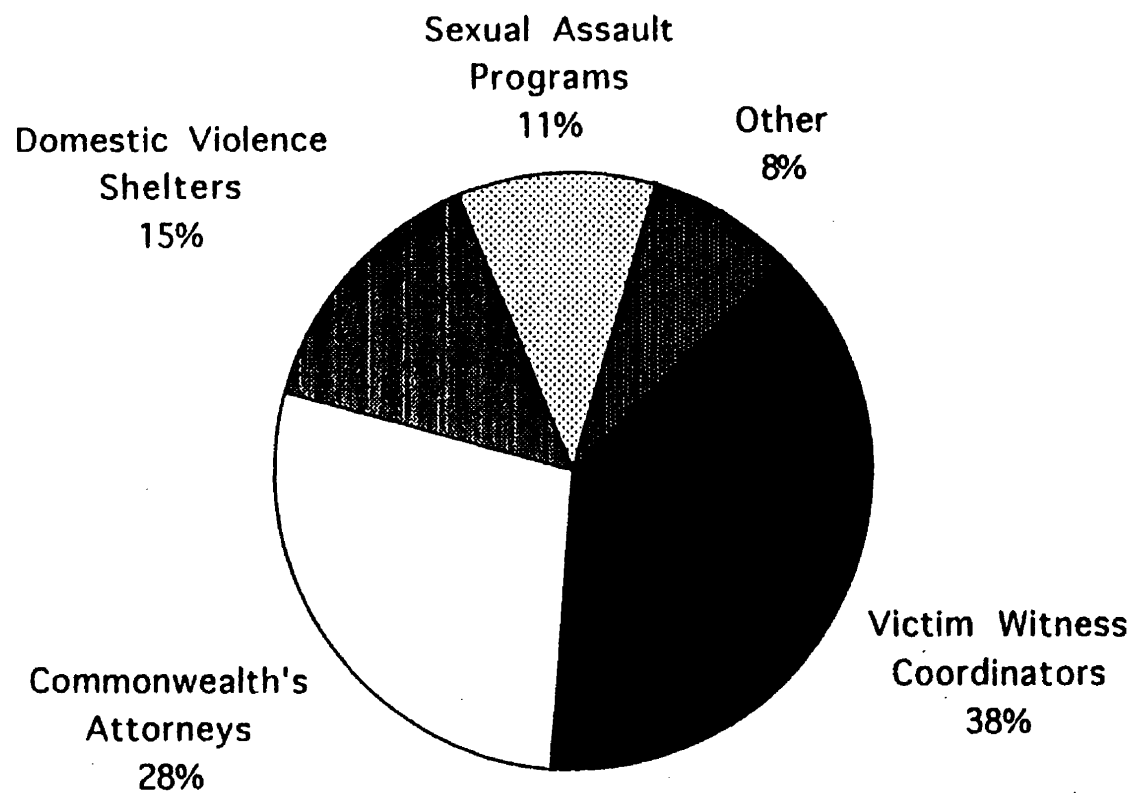
Washington	•no specifics	•No standardized assessment instrument developed for intake, but standards identify 17 topic areas that must be covered during intake (e.g. lethality, weapon access, diagnostic evaluation)	•Standards require contact with court upon completion/termination, but provide no specifics about establishing this feedback system
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APPENDIX F. CRIME VICTIM'S COMPENSATION SURVEY

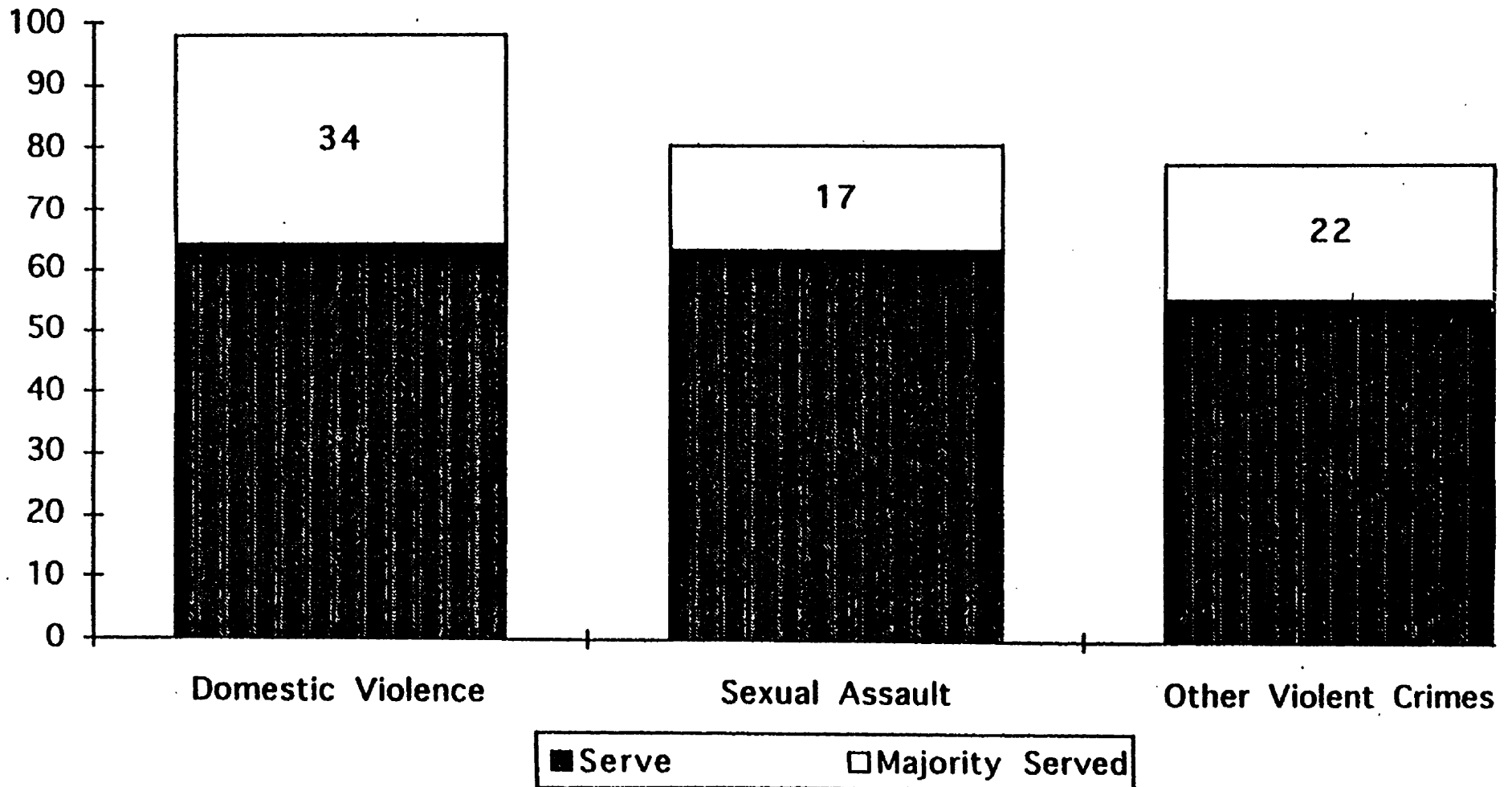
- I. Sample Composition
- II. Number of Respondents Who Serve Each Type of Victim
- III. Claimants Understanding of Eligibility Requirements
- IV. Frequency of Economic Hardship Due to Delays in
Compensation Process
- V. Frequency of Claimants by Group Denied Due to Innocent
Victim Requirement

Sample Composition

CRIME VICTIMS' COMPENSATION SURVEY



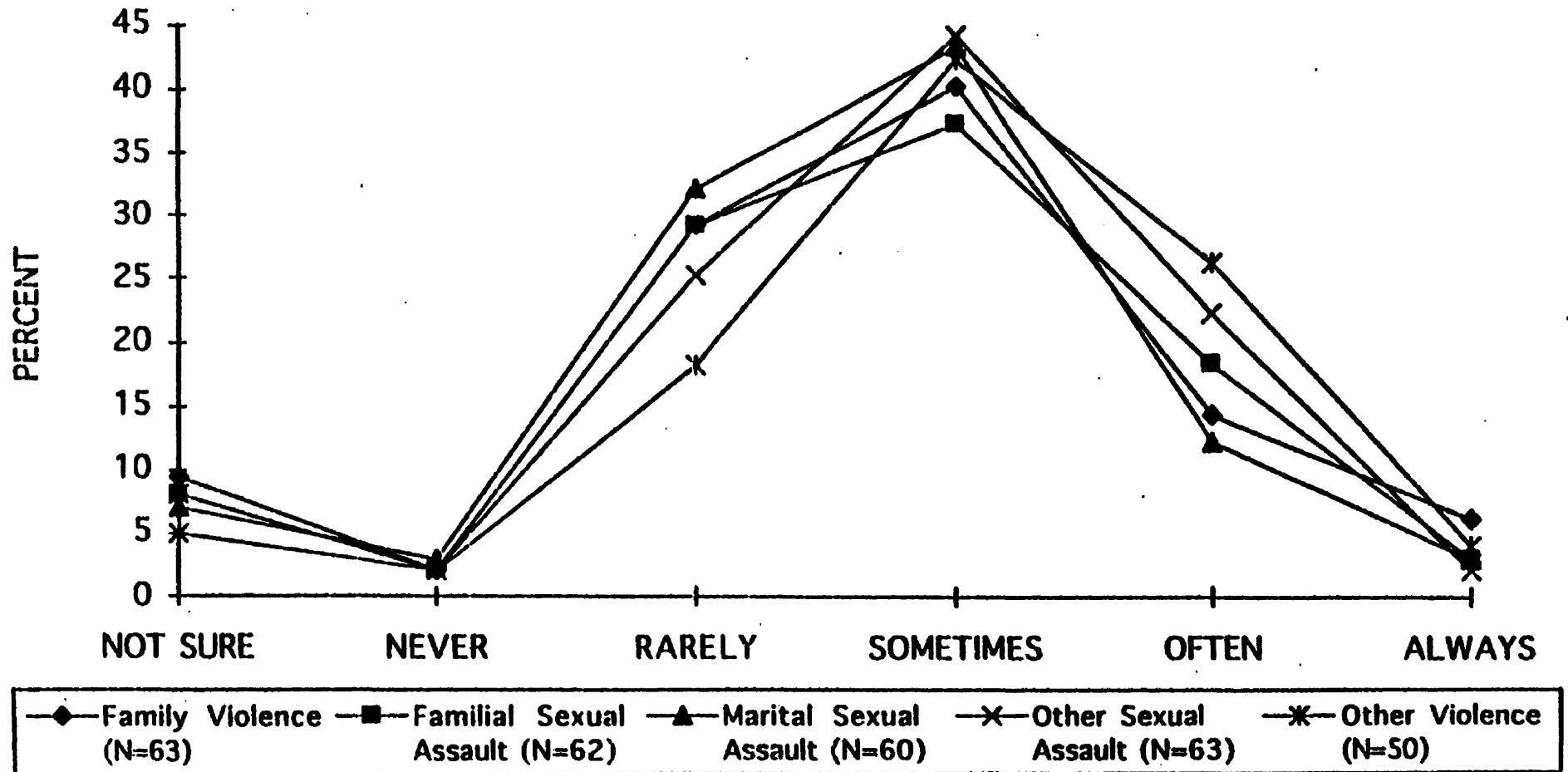
Number of Respondents Who Serve Each Type of Victim CRIME VICTIMS' COMPENSATION SURVEY



Claimants Understand Eligibility Requirements

Ease of Process

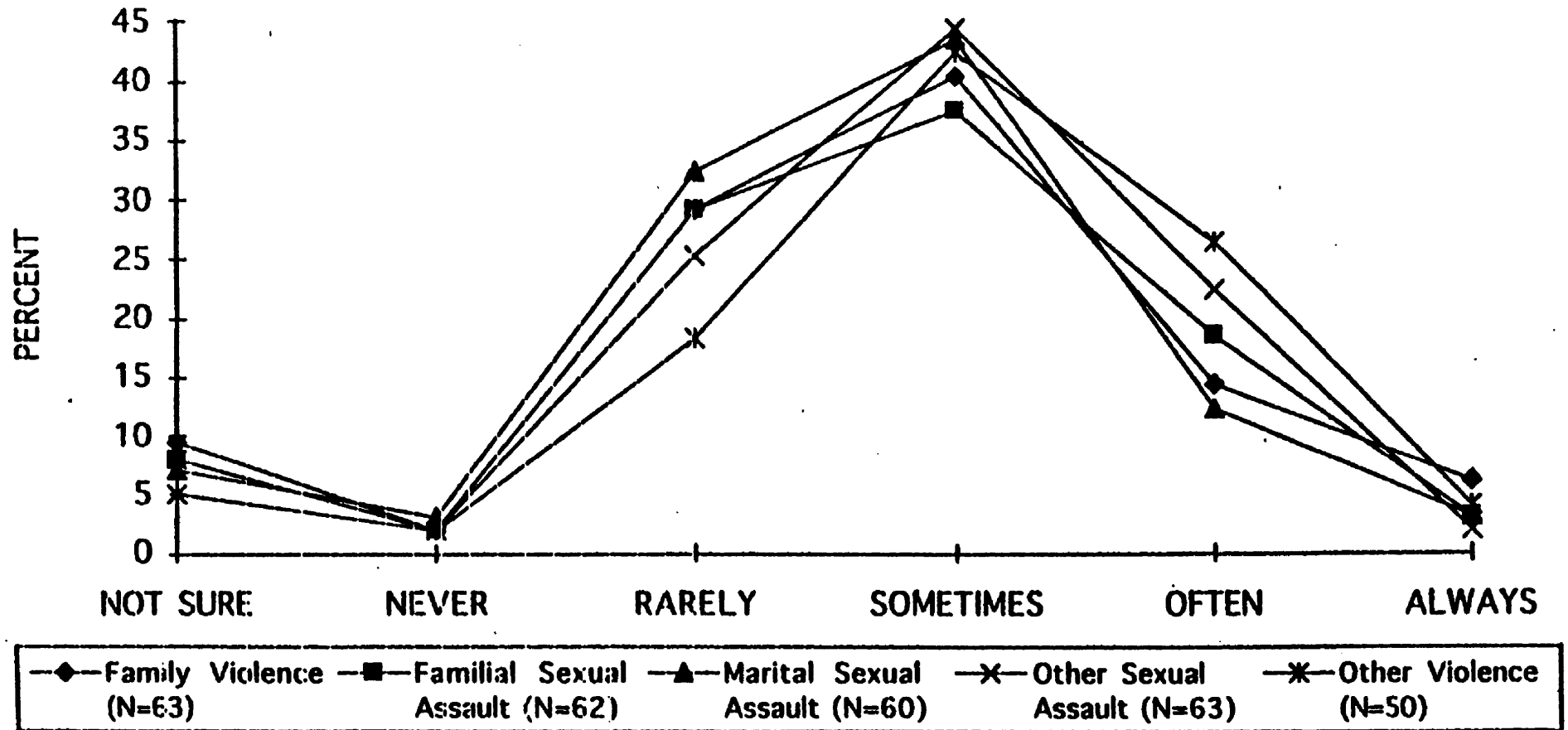
CRIME VICTIMS' COMPENSATION SURVEY



13 June 1996
Crime Victims's Compensation Task Group
Virginia Commission on Family Violence Prevention

Frequency with Which Claimants Have Difficulty Substantiating Expenses/Losses

Ease of Process CRIME VICTIMS' COMPENSATION SURVEY

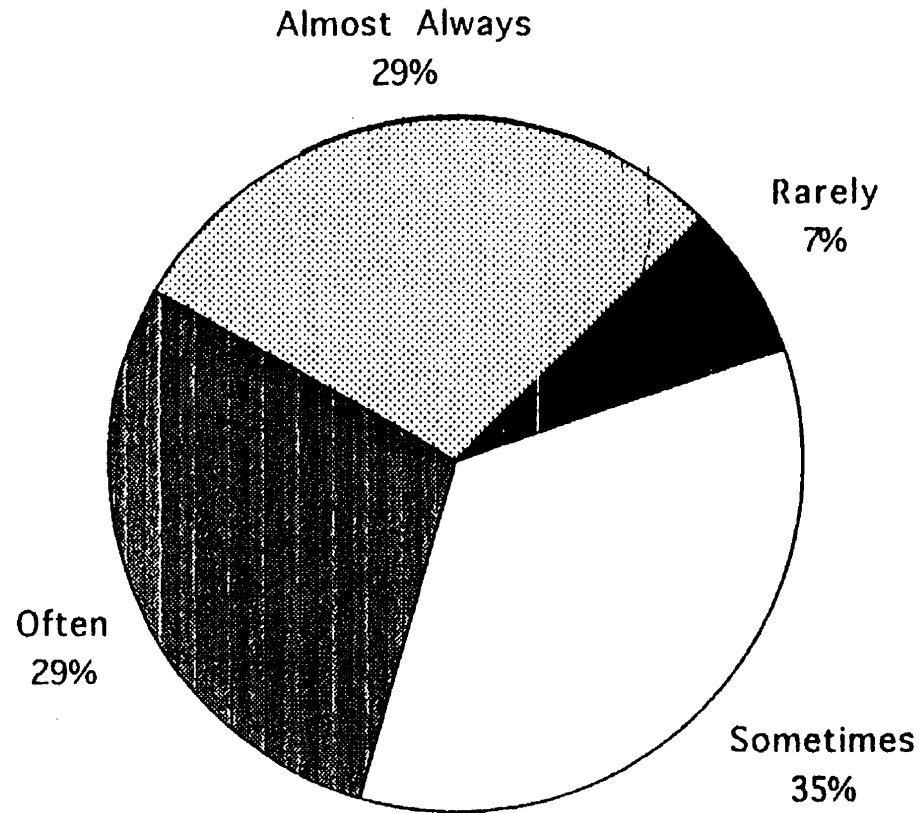


13 June 1996
 Crime Victims's Compensation Task Group
 Virginia Commission on Family Violence Prevention

Frequency of Economic Hardship Due to Delays in Compensation Process

Length of Time to Receive Compensation

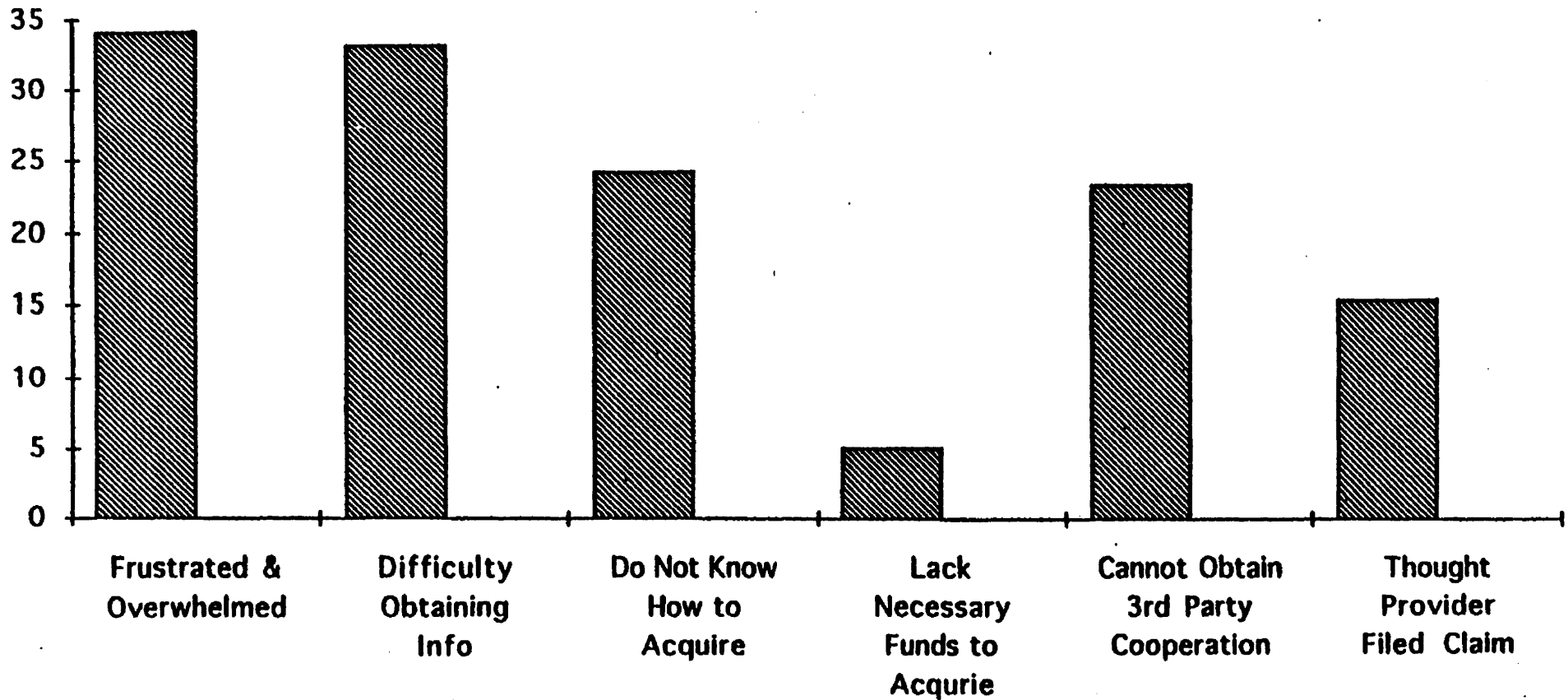
Crime Victims' Compensation Survey



Reasons Why Claimants Fail to Respond to Additional Requests for Information

Denial Reasons

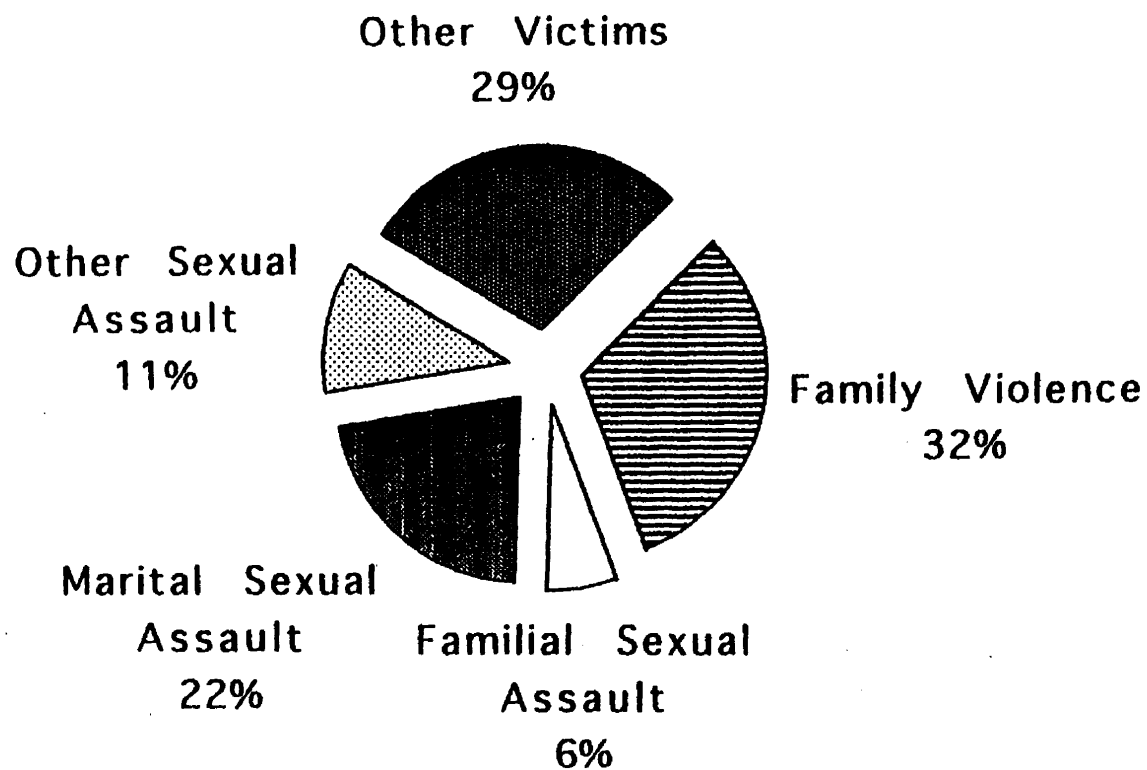
CRIME VICTIMS' COMPENSATION SURVEY



14 June 1996
Crime Victims's Compensation Task Group
Virginia Commission on Family Violence Prevention

Frequency of Claimants by Group Denied Due to Innocent Victim Requirement

Innocent Victim/Contributory Behavior Requirement
CRIME VICTIMS' COMPENSATION SURVEY



APPENDIX G. *FAMILY VIOLENCE GRANT ALLOCATIONS IN VIRGINIA*

- I. Family Violence Grant Programs 1996, By locality
- II. Summary of Dollars Spent by Program

Family Violence Grant Programs 1996

18-Dec-96

Locality	Spouse Abuse Programs			Sexual Assault Programs			V-STOP	Victim/Witness Programs			Child Abuse Programs	
	STATE DV	VOCA DV	FV PSA	STATE SA	VOCA SA	VAWA SA		STATE VW	VOCA VW	FED COPS	STATE CA	VOCA CA
Accomack			X	X	X						X	
Albemarle												
Alexandria	X	X						X	X	X		
Alleghany			X									
Amelia												
Amherst			X				X le	X	X			
Appomattox												
Arlington				X	X			X	X			
Augusta								X	X			
Bath												
Bedford City								X				
Bedford Cou							X le	X				
Bland												
Botetourt												
Bristol	X			X	X		X le,vs	X	X			X
Brunswick								X				
Buchanan		X						X				X
Buckingham												
Buena Vista												
Campbell								X	X			
Caroline												
Carroll								X				
Charles City												
Charlotte												
Charlottesville	X			X	X			X	X			X
Chesapeake							X vs	X				
Chesterfield								X		X		
Clarke												
Clifton Forge												

98

Locality	Spouse Abuse Programs			Sexual Assault Programs			V-STOP	Victim/Witness Programs			Child Abuse Programs	
	STATE DV	VOCA DV	FV PSA	STATE SA	VOCA SA	VAWA SA		STATE VW	VOCA VW	FED COPS	STATE CA	VOCA CA
Colonial Heig								X				
Craig												
Culpeper		X						X	X			X
Cumberland												
Danville	X			X	X			X				X
Dickenson								X	X			
Dinwiddie												
Emporia		X						X	X			
Essex												
Fairfax				X	X			X		X		X
Falls Church											X	
Fauquier								X	X			
Floyd												
Fluvanna												
Franklin City												
Franklin Cou	X									X		X
Frederick								X	X			
Fredericksbu				X	X			X	X		X	
Galax												
Giles												
Gloucester							X pr	X	X			
Goochland											X	
Grayson												
Greene												
Greensville								X	X			
Halifax								X	X			
Hampton		X					X le,pr,vs	X	X	X		X
Hanover												
Harrisonburg			X	X	X							
Henrico								X				X
Henry								X	X			
Highland												

Locality	Spouse Abuse Programs			Sexual Assault Programs			V-STOP	Victim/Witness Programs			Child Abuse Programs	
	STATE DV	VOCA DV	FV PSA	STATE SA	VOCA SA	VAWA SA		STATE VW	VOCA VW	FED COPS	STATE CA	VOCA CA
Hopewell				X	X				X			
Isle of Wight									X	X		
James City												
King & Queen												
King George												
King William												
Lancaster											X	
Lee												
Lexington	X											
Loudon			X				X vs	X	X			X
Louisa							X vs					
Lunenburg												
Lynchburg		X		X	X			X	X	X		X
Madison												
Manassas												
Manassas P												
Martinsville	X			X	X		X vs	X	X			X
Mathews												
Mecklenburg								X	X			
Middlesex											X	
Montgomery								X				
Nelson												
New Kent												
Newport Ne				X	X			X		X	X	X
Norfolk	X	X	X	X	X		X pr	X		X		X
Northampton												
Northumberl											X	
Norton												
Nottoway												
Orange											X	
Page	X						X vs					
Patrick								X	X			

Locality	Spouse Abuse Programs			Sexual Assault Programs			V-STOP	Victim/Witness Programs			Child Abuse Programs	
	STATE DV	VOCA DV	FV PSA	STATE SA	VOCA SA	VAWA SA		STATE VW	VOCA VW	FED COPS	STATE CA	VOCA CA
Petersburg								X				X
Pittsylvania								X				
Poquoson												
Portsmouth	X							X		X		
Powhatan												
Prince Edwar							X le				X	
Prince Georg											X	
Prince Willia			X	X	X		X vs					X
Pulaski								X				
Radford	X			X	X			X				X
Rappahanoc												
Richmond Ci			X	X	X			X		X		X
Richmond C X											X	
Roanoke Cit	X			X	X			X	X		X	X
Roanoke Co								X	X			
Rockbridge												
Rockingham												
Russell								X	X			X
Salem												
Scott	X							X	X			
Shenandoah	X											
Smyth												
South Bosto								X				
Southampton								X				
Spotsylvania								X	X			
Stafford							X vs					
Staunton	X			X	X			X				
Suffolk	X							X				
Surry												
Sussex												
Tazewell	X			X	X		X le	X	X			
Virginia Beac			X				X le,pr	X	X			X

Locality	Spouse Abuse Programs			Sexual Assault Programs			V-STOP	Victim/Witness Programs			Child Abuse Programs	
	STATE DV	VOCA DV	FV PSA	STATE SA	VOCA SA	VAWA SA		STATE VW	VOCA VW	FED COPS	STATE CA	VOCA CA
Warren			X					X				
Washington								X			X	
Waynesboro								X				X
Westmoreland							X vs	X				
Williamsburg			X	X	X			X			X	X
Winchester		X		X	X		X vs	X			X	
Wise	X											X
Wythe		X		X	X		X le				X	X
York							X pr	X	X			
z localities fu	16	13	11	22	22		20	63	32	10	22	23
ztotal allocati												

dollars (Summary)

18-Dec-96

DV state	DV Voca	Psa Fv	SA State	SA Voca	SA VAWA	VStop VAWA	VW state	VW Voca	COPs federal	CA state	CA Voca
\$1,082,189	\$1,060,096	\$515,137	\$552,480	\$712,824	\$0	\$265,648	\$1,613,340	\$958,437	\$1,422,623	\$460,155	\$417,776



COMMONWEALTH of VIRGINIA

Commission on Family Violence Prevention

Senator Janet D. Howell
Chair

Harriet M. Russell
Executive Director

December 20, 1996

The Honorable George Allen
Governor of Virginia
State Capitol, Third Floor
Richmond, VA 23219

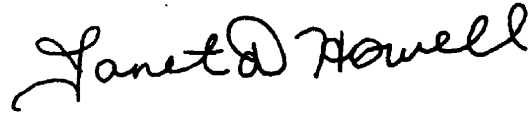
Dear Governor Allen:

The Commission on Family Violence Prevention was charged under SJR 27 to study family violence and identify existing services and resources to address family violence. In this capacity, the Commission has expressed interest in the impact of welfare reform on the lives of family violence victims and their families. The federal Public Law 104-193 regarding welfare reform contains language about an optional certification of standards and procedures to ensure that a state will screen for and identify domestic violence. At the option of the state, the state can establish procedures to screen and identify individuals with a history of domestic violence while maintaining confidentiality; refer individuals to counseling and support services; and waive for good cause other program requirements such as time limits, residency requirements, child support cooperation requirements, and family cap provisions in cases where compliance would make it more difficult for individuals to escape domestic violence or unfairly penalize such individuals.

The Commission requests that Virginia evaluate its response to family violence victims in the context of current and planned welfare reform efforts, including the exercise of the option outlined above. The Commission recognizes that welfare reform is a complex process and believes that issues related to domestic violence are worthy of further attention and debate. We would appreciate it if the Department of Social Services would keep us informed about the evaluation of these issues and any decisions that may impact family violence victims in particular. If the Commission can provide any information to your office, please contact the staff

at 692-0375. Thank you for your attention to this matter and your consideration of the needs of Virginia's victims of family violence.

Sincerely,

A handwritten signature in black ink that reads "Janet D. Howell". The signature is written in a cursive style with a large initial "J" and "H".

Janet D. Howell
Chair

JDH/lck

cc: Commissioner Carter, DSS
Commission Members

1996 SESSION
ENGROSSED

961593833

SENATE JOINT RESOLUTION NO. 69

Senate Amendments in []—February 9, 1996

Directing [Commission on Family Violence Prevention to assure adequate levels and scope of law enforcement training in family violence issues; the Commission on Family Violence to assure that training is provided on family violence issues to justice system professionals.]

Patron—Howell

Referred to the Committee on Rules

WHEREAS, the Commonwealth has acknowledged that family violence is a serious problem that merits legislative attention, but legislation alone can not adequately address the complex issues involved in family violence; and

WHEREAS, to effectively implement legislation and reduce the incidence of family violence the Commonwealth must enlist the resources and expertise of a broad base of professionals who must receive adequate and comprehensive cross-disciplinary training; and

WHEREAS, the Commission on Family Violence Prevention has developed interdisciplinary training materials designed to improve professional responses to family violence; now therefore, be it

RESOLVED, by the Senate, the House of Delegates concurring, That the Commission on Family Violence Prevention assure that training is provided for justice system professionals, including judges, Commonwealth's attorneys, law enforcement officers, clerks, intake officers, and magistrates, on the statutory provisions and procedures related to protective orders and stalking, using materials developed by the Commission.

The Commission shall report on the results of its training effort and make further recommendations, if any, to the Governor and the 1997 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

***APPENDIX J. RESULTS OF REGIONAL CLERKS AND MAGISTRATES
TRAINING***

- I. Effective Practice and Concerns by Region
- II. Question/Concern Themes and Possible Solutions

Responses from Magistrates/Clerks Fall, 1996 Regional Training

LOCATION	What Works	Concerns
Wytheville	<ul style="list-style-type: none"> • Multi disciplinary meetings • Use of the "bond questionnaire" as a way to communicate from magistrate to magistrate and magistrate to judge • Inform the victim of the conditions of bond • If the alleged perpetrator lies on DC 327 - prosecute for perjury • Include information provided by the victim on the criminal complaint form or attach form to the warrant • Elicit information from the victim to assist in setting conditions of release 	<ul style="list-style-type: none"> • Need criminal record from law enforcement • No communication between J&DR court & magistrates • Commonwealth Attorney's training • Include reference to 18.2-308.1:4 (transport/purchase firearm) on PO form • Use term 'deadly weapon' rather than firearm • Substitute judge training • Can a bond decision be appealed? • Bail/bond - do not release on unsecured - err on side of safety for victim • Judicial training • Public education • Should those charged with stalking be released on PR? • Need police investigation of all stalking charges • Prompt service of PO s & entry into VCIN by law enforcement • EPO when warrant issued vs at bail hearing • Clarify only law enforcement can request an EPO "verbally" over the phone
Staunton	<ul style="list-style-type: none"> • Educate the public re "healthy relationships" • Use the criminal complaint form to communicate from magistrate to magistrate - attach to warrant • Leave notes for other magistrates within the office • Attach bail check list to the warrant • Leave copies of all warrants issued for the next magistrate • Magistrate notify law enforcement when they issue a warrant to initiate an investigation/report • Increase treatment/programs for abusers 	<ul style="list-style-type: none"> • Court will only issue protective orders if a warrant has been issued • Difficult to find out if protective orders have been served (access to VCIN) • Poor communication magistrate to magistrate (suggest use of E mail) • SB 113 language in 16.1-253.4 not reference A&B warrant - abuse and likelihood of future abuse - requires amendment • Need to review & revise EPO form - use a distinctive color • Make clear serving officer/agency is responsible for entering order into VCIN • Does use of EPO "sanction" illicit relationship • Need for judicial training • Judges/prosecutors do not want the bail check list attached - becomes part of the public record • Clarify bar to "mutual orders" • If someone uses a third agent to stalk - who is the stalker? • Informational materials for the magistrate to distribute • Protective orders should remain in effect until the final disposition of the case

Lynchburg	<ul style="list-style-type: none"> • Use of victim summary form to communicate magistrate to magistrate • Bail check list • Bond condition file maintained in magistrate's office • Salvation Army as a community resource for these families 	<ul style="list-style-type: none"> • Judges issue verbal orders - never write them down • Information/facts that were the basis of warrant not communicated to magistrate at bond hearing - especially if in different jurisdiction - issue EPO when issue warrant • Block on warrant for information that can be used at bail hearing/arraignment • Need criminal history for bail hearing • Court disposition & arraignment? not communicated back to magistrate • If there are cross warrants issued, victim/witness programs can no longer provide services
Fairfax	<ul style="list-style-type: none"> • When children are present, refer/call DSS • Send a note with warrant if there is info from the victim that would assist at the bail hearing • Give the number of the jail to the victim so they can all to find out when alleged abuser released 	<ul style="list-style-type: none"> • Cultural differences • Difficult to tell who is the victim and who is the abuser • Victim/witness & victim services involvement • No consistent way to get info to magistrate conducting bail hearing • VCIN/criminal record info to magistrate • Can a magistrate contact a victim when conducting a bail hearing? • If issue EPO at bail hearing then can not issue a warrant that permits an officer to issue a summons • Magistrates should be mandated CPS reporters • Maintain magistrate files on computer - use computer to communicate magistrate to magistrate
Richmond	<ul style="list-style-type: none"> • Give the victim 2 copies of the PO; if a violation occurs can give second copy to officer who responds - serves order 	<ul style="list-style-type: none"> • Limited tools (PO) for situations that don't involve family/household members - stalking • EPO form keep block about why PO denied • Can a child petition for a PO? • Can a parent petition for a PO with a child as the respondent? • Some cases arraigned in GD where there is cross arraignments • Does EPO become void after an arraignment? If so who tells the victim? • Create special A&B warrant 18.2-57.2 form that contains a block for the EPO • Can the magistrate who conducts the bail hearing amend the EPO?
Hampton	<ul style="list-style-type: none"> • Allow the parties to blow off steam • Assure the safety of victims & their children • Pretrial release programs 	<ul style="list-style-type: none"> • EPO should be issued at bail hearing so can hear respondent's side • Magistrates not rewarded, sometimes "punished", for spending too much time with cases - these cases take time, there is no reward for spending time with these families

Question/Concern Themes and Possible Solutions

Theme	Possible Solutions
<p>Information gathered by the magistrate who issues the warrant is not routinely available to the magistrate conducting the bail hearing. If one of the considerations at the bail hearing is a determination as to whether or not the accused poses a threat to themselves or the community; then the factual basis that led to the issuance of a warrant involving a violent crime would be essential in this determination.</p>	<ul style="list-style-type: none"> • Use of criminal complaint form in all cases and attachment of the form to the warrant • Use of "post it" notes or hand written notes on the warrant to alert the magistrate conducting the bail hearing • Creating a computer file with information relevant to the case that can be accessed by the magistrates • Use of E-mail to relay information to the magistrate conducting the bail hearing • Creating a block on the warrant that can be used to note information that would be relevant at a bail hearing <p><i>OES meeting: Recommend use of the Checklist for Bail Determinations (DC-237); the check list should be used by the "issuing" magistrate to convey information gathered from the victim or law enforcement officer that can assist the "bail" magistrate determine bail conditions. The list can be attached to the warrant and law enforcement would then be aware of any special circumstances, i.e. presence or use of a weapon, when serving the warrant. This would be good practice when issuing all criminal warrants, not just 18.2-57.2. The "issuing" magistrate would complete and sign a DC-237 to the best of their ability; the "bail" magistrate would complete his/her own version, using the first checklist as a reference/report of information from the "issuing" magistrate.</i></p>
<p>Magistrates do not routinely or consistently across the state have access to the criminal record, outstanding warrants or existence of protective orders at the time they issue warrants or set bond. This information is important in determining the appropriate charge and conditions of release.</p>	<ul style="list-style-type: none"> • Introduce legislation requiring law enforcement officers to provide this information to magistrates upon request • Assure that every magistrate be able to access VCIN directly <p><i>The Commission has asked Col. Huggins of the State Police to address the Commission at its January 6, 1997 meeting to discuss the status of VCIN and how to effectuate access to pertinent information by magistrates.</i></p>
<p>The EPO forms need to be reviewed and revised.</p>	<ul style="list-style-type: none"> • EPO forms should be a unique/eye-catching color • EPO forms should include reference to 18.2-308.1:4 which bars respondents named in protective orders from purchasing or transporting firearms • Determine whether form needs to contain block for the

	<p>reason an order is denied</p> <p><i>The Commission will convene a task group to review the EPO forms and provide recommendations to OES.</i></p>
<p>Development of a special 18.2-57.2 warrant form should be considered.</p>	<ul style="list-style-type: none"> • 18.2-57.2 warrant form that contains a block for the EPO on the warrant form and is a distinctive color • Include a block on the criminal warrant form that can be used to relay information from the "issuing" magistrate to the "bail" magistrate <p><i>OES meeting: Discouraged altering the warrant form.</i></p>
<p>The code needs to be clarified in order to implement SB 113 as intended.</p>	<ul style="list-style-type: none"> • Only law enforcement can request a "verbal" EPO over the phone • Reference the issuance of a warrant pursuant to 18.2-57.2 as a basis for issuance of an EPO in 16.1-253.4 • State that the serving officer be responsible for entry of the PO in VCIN <p><i>These changes will be presented to the Commission for consideration for inclusion in their 1997 legislative packet.</i></p>
<p>There was no consensus as to when the EPO should be issued - when the warrant is issued or when the bail hearing is conducted.</p> <p>If it is done at the bail hearing:</p> <ul style="list-style-type: none"> • All warrants will require an arrest and bail hearing, there could not be a "summons permitted warrant" • "Bail" magistrate will not hear the testimony of the victim or their description of the criminal activity that led to the warrant • Information from the victim, if available is not likely to be communicated across jurisdictions if the warrant is issued in one place and the accused is arrested in another jurisdiction • Victim will have to be notified about what conditions have been placed • The order will be served immediately at the bail hearing <p>If it is done when the warrant is issued:</p> <p>"Issuing" magistrate will not have heard the accused side of the story</p> <ul style="list-style-type: none"> • Things may cool down between the time the warrant & EPO are issued and when they are 	<p><i>OES meeting: Felt that issuance of the EPO should track as closely as possible the issuance of the Preliminary Protective Orders (PPO). PPOs are issued in an "ex parte" manner based on a petition entered by the allegedly abused person. The EPO should be issued in the same manner based on the testimony of the petitioner, not the respondent. The most meaningful information related to the safety needs of the alleged victim and family members is most likely available from that person. Finally, there may be jurisdictional concerns if the warrant and therefore the basis of the petition for the EPO is in one jurisdiction but the order is issued in another.</i></p> <p><i>Magistrate's Association: see attached letter.</i></p> <p><i>Commission Legislative Drafting Group: Adding the language to 16.1-253.4 would provide that when a warrant is issued on testimony of the alleged abused party or an officer prior to an arrest, an EPO would be issued at that time and the warrant could be issued allowing the officer to convert it to a summons in the field. The language in 18.2-57.2 would remain the same and indicate that when a warrant is sought in conjunction with a "warrantless</i></p>

<p>served so some of the conditions may no longer be necessary</p> <ul style="list-style-type: none"> • Require that service be effectuated 	<p><i>arrest" situation, the EPO would be issued at the time of the bail hearing.</i></p>
<p>Training needs to be provided to others in order to implement SB 113</p>	<ul style="list-style-type: none"> • Judges • Substitute judges • Commonwealth's attorneys • General public <p><i>J&DR Court judges have requested a presentation on SB 113 at their next conference.</i></p> <p><i>Commonwealth's attorneys' Association provided training in April, 1996 and are developing a chapter for inclusion in their Manual.</i></p> <p><i>The Commission distributes a statewide public awareness packet each fall.</i></p>
<p>There are a number of break downs in lines of communication:</p> <ul style="list-style-type: none"> • Magistrate to magistrate (in the same jurisdiction & across jurisdictions) • Magistrate to clerk • Magistrate to J&DR court to magistrate • J&DR court to GD court (especially key where there are cross arraignments) • Magistrate to victim/witness or victim advocacy programs 	

A number of questions were raised:

- Can a bond/bail decision be appealed? To whom?

Yes. The accused may appeal the bond decision to the arraigning court or the court that has authority over the case. The commonwealth's attorney may request that a magistrate increase the bond if an arraignment has not yet occurred. If there has been an arraignment, the commonwealth's attorney may appeal the bond to the court who has jurisdiction over the case.

- Does issuing a PO require a criminal warrant?

No

- If someone uses a third agent to stalk; who is charged with stalking?

Assuming that a pattern of behavior has been established that is intended to place an alleged victim in fear of death, serious bodily injury or sexual assault; or there is knowledge on the part of the alleged stalker that the behavior is placing the target in fear of the above; the person enlisting another for the purpose of

stalking is chargeable; if the person enlisted to do the stalking is aware that the behavior meets the criteria above then they would be chargeable as well.

- If there are cross warrants, can the victim/witness program provide services?

Federal regulations prohibit use of victim services funds for individuals who have been convicted of a crime and are incarcerated. They may be used for persons charged but yet convicted and for those convicted who are not incarcerated. The decision about whether to provide services to such individuals is made at the local level.

- Can a magistrate contact a victim during a bail hearing to get his/her side of the story?

Nothing exists to prevent a magistrate from doing so but it is likely to be impractical in most circumstances. Phone contact could not be used to replace a sworn statement; such contact would not have to be in the accused's presence or "discoverable".

- Can a child petition for a protective order?

Yes.

- Can a parent petition for a protective order and name a child as the respondent?

Yes.

- Does an EPO become void after an arraignment hearing by the court?

The EPO is independent of the arraignment hearing. The EPO would remain in effect for 72 hours or until the court next sits whichever is later.

- Can a magistrate amend an EPO?

No. The code states the "court" may dissolve or modify orders.

Other general comments/concerns:

- Magistrates are not rewarded for spending time with victims; in fact, in some localities, they are criticized if they spend time with cases. They are rewarded for processing the most cases in the least amount of time. This approach, although it is likely designed to assure efficiency, may jeopardize the safety of victims of family violence.

Use the term "deadly weapon" in the code rather than fire arm

- Require police open an investigation on all stalking charges

- Assure prompt service of PO s and entry into VCIN
- Need to provide magistrates with informational material they can distribute
The reference manual has some information that can be copied and distributed. The Commission will send a copy of the public awareness packet to any who request it.
- EPO should remain in effect until the final disposition of the case
- Judges should issue written PO s or write orders, not merely provide verbal orders from the bench
- Cultural differences create challenges when dealing with family violence issues
- It is often difficult to determine who is the victim and who is the abuser
- Magistrates should be listed in the code as mandatory reporters for child abuse/neglect
- PO s should be available for cases of stalking not involving family or household members
Alexandria will be introducing legislation to support this concept.

APPENDIX K. ANALYSIS BY STATE OF LAW ENFORCEMENT TRAINING

- I. Statutory Training Requirements: Mandated Hours & Goals
- II. Statutory Training Requirements: Victim Referrals, Batterer Referrals, Prosecution Assistance Techniques, Evidence Collection
- III. Statutory Training Requirements: Criminal Law, Civil Law, Impact on Children

Statutory Training Requirements
(chart 1)

State	Code Section	Basic Training - Hrs. & Mandatory (M) or Discretionary(D)	Veteran Officer Training - Hrs. & Mandatory (M) or Discretionary (D)	Updates & In services	Goals
Alabama	none				
Alaska	Alaska Stat. 18.65.510	M	no	no	-promote the safety of the victim -promote the safety of the officer -reduce likelihood of recurrence
Arizona	none				
Arkansas	none				
California	Cal. Penal Code 13519	M	M	encouraged for patrol officers every 2 years	none
Colorado	none				
Connecticut	Conn. Gen. Stat. Ann. 7-294g(a) and 46b-38b(f)	M 2 hours min.	M 2 hours min.	Yes	-promote safety of victim -promote safety of officer -reduce likelihood of recurrence
Delaware	none				
District of Columbia	D.C. Code Ann. 16-1034(a)	M 20 hours	M 8 hours	no	-minimize likelihood of injury to officer -promote safety of victim

Florida	Fla. Stat. Ann. 943.171	M 6 hours	no	no	none
State	Code Section	Basic Training - Hrs. & Mandatory (M) or Discretionary(D)	Veteran Officer Training - Hrs. & Mandatory (M) or Discretionary (D)	Updates & In services	Goals
Georgia	Official Code of Ga. 35-1-10	no	no	no	requires only that guidelines be developed
Hawaii	none				
Idaho	Idaho Code 39-6316	no	no	no	-protection of victim
Illinois	Ill. Rev. Stat. 85-507	M	M	no	none
Indiana	Ind. Code 5-2-8-5	-M for county officers -D for city and town officers	no	no	-minimize likelihood of injury to officer -promote safety of victim
Iowa	Iowa Code Ann. 80B.11	M	M	D	none
Kansas	none				
Kentucky	Ky. Rev. Stat. 403.785(2)	M	M	no	-prevent further abuse (lists specific techniques)

Louisiana	none				
Maine	19 Me. Rev. Stat. Ann. 770(3)	D	M	no	none
State	Code Section	Basic Training - Hrs. & Mandatory (M) or Discretionary(D)	Veteran Officer Training - Hrs. & Mandatory (M) or Discretionary (D)	Updates & In services	Goals
Maryland	none				
Massachusetts	6 Mass. Gen. Laws Ann. 116A	M 8 hours	no	D	-minimize likelihood of injury to officer -promote victim safety
Michigan	Mich. Compiled Laws Ann. 776.22	no	no	no	says guidelines should be developed
Minnesota	Minn. Stat. Ann. 629.341	M 3 hours	M	no	none
Mississippi	none				
Missouri	Mo. Ann. Stat. 455.080(3)	D	M	no	none
Montana	none				
Nebraska	Neb. Rev. Stat. 42-927	D	M	no	none
Nevada	none				

New Hampshire	none				
New Jersey	N.J. Stat. Ann. 2C:25-20	M	M	M every two years	none
New Mexico	none				
State	Code Section	Basic Training - Hrs. & Mandatory (M) or Discretionary(D)	Veteran Officer Training - Hrs. & Mandatory (M) or Discretionary (D)	Updates & In services	Goals
New York	35 NY CLS Gov. 840	no	no	no	none
North Carolina	none				
North Dakota	N.D. Cent. Code 14-07.1-14	no	no	no	-enforcement of criminal laws -use of community resources
Ohio	Ohio Rev. Code Ann. 109.744	M 15 hours min.	no	no	none
Oklahoma	none				
Oregon	none				
Pennsylvania	23 Pa. Cons. Stat. Ann. 6105	M	M	no	none
Rhode Island	R.I. Gen. Laws 12-29-6	M 8 hours min.	M 4 hours min.	M	-minimize likelihood of injury to officer -promote victim safety

South Carolina	none				
South Dakota	S.D. Codified Laws Ann. 23-3-42-1	M 4 hours min.	no	no	-protection of victim
State	Code Section	Basic Training - Hrs. & Mandatory (M) or Discretionary(D)	Veteran Officer Training - Hrs. & Mandatory (M) or Discretionary (D)	Updates & In services	Goals
Texas	4 Tex. Code Ann. 415.032	M	M	M every 2 years	none
Tennessee	none				
Utah	Utah Code Ann. 77-36-2(1)	no	no	no	-victim protection -enforcement of criminal laws
Vermont	none				
Virginia	SB113	no	no	no	requires guidelines to be created
Washington	Wash. Rev. Code Ann. 10.99.030 (1)	M 20 hours min.	D	D	-minimize officer injury -enforcement of criminal laws -victim safety -hold perpetrator accountable for violence
West Virginia	none				
Wisconsin	Wisc. Stat. Ann. 968.075(8)	no	no	no	-enforcement of criminal laws -victim safety

Wyoming	Wyo. Stat. Ann. 7-20-105	M 2 hours	M 8 hours	no	none
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Statutory Training Requirements
(Chart 2)

	Code Section	Victim Referrals	Batterer Referrals	Prosecution Assistance Techniques	Evidence Collection
Alabama	none				
Alaska	Alaska Stat. 18.65.510	organizations that offer aid or shelter	no	yes	no
Arizona	none				
Arkansas	none				
California	Cal. Penal Code 13519	services and facilities	services and facilities	no	yes
Colorado	none				
Connecticut	Conn. Gen. Stat. Ann. 7-294g(a) and 46b-38b(f)	legal information; services and facilities	legal information; services and facilities	yes	yes
Delaware	none				
District of Columbia	D.C. Code Ann. 16-1034(a)	legal rights and remedies; services and facilities	legal rights and remedies; services and facilities	no	no
Florida	Fla. Stat. Ann. 943.171	no	no	no	no

Georgia	Official Code of Ga. 35-1-10	no	no	no	no
Hawaii	none				
	Code Section	Victim Referrals	Batterer Referrals	Prosecution Assistance Techniques	Evidence Collection
Indiana	Ind. Code 5-2-8-5	services and facilities	services and facilities	no	yes
Iowa	Iowa Code Ann. 80B.11	no	no	no	no
Kansas	none				
Kentucky	Ky. Rev. Stat. 403.785 (2)	services and facilities	no	no	no
Louisiana	none				
Maine	19 Me. Rev. Stat. Ann. 770(3)	services and facilities	no	no	no
Maryland	none				
Massachusetts	6 Mass. Gen. Laws Ann. 116A	legal rights and remedies; victim's compensation; shelters; legal advocacy programs	no	no	yes

Michigan	Mich. Compiled Laws Ann. 776.22	no	no	no	no
Minnesota	Minn. Stat. Ann. 629.341	no	no	no	no
Mississippi	none				
	Code Section	Victim Referrals	Batterer Referrals	Prosecution Assistance Techniques	Evidence Collection
Missouri	Mo. Ann. Stat. 455.080 (3)	no	no	no	no
Montana	none				
Nebraska	Neb. Rev. Stat. 42-927	services and facilities	no	no	no
Nevada	none				
New Hampshire	none				
New Jersey	N.J. Stat. Ann. 2C:25-20	no	no	no	no
New Mexico	none				
New York	35 NY CLS Gov. 840	services and facilities	no	no	no
North Carolina	none				

North Dakota	N.D. Cent. Code 14-07.1-14	no	no	no	no
Ohio	Ohio Rev. Code Ann. 109.744	notifying victims of their rights	no	no	no
Oklahoma	none				
Oregon	none				
	Code Section	Victim Referrals	Batterer Referrals	Prosecution Assistance Techniques	Evidence Collection
Pennsylvania	23 Pa. Cons. Stat. Ann. 6105	no	no	no	no
Rhode Island	R.I. Gen. Laws 12-29-6	legal information; services and facilities	services and facilities	no	no
South Carolina	none				
South Dakota	S.D. Codified Laws Ann. 23-3-42-1	no	no	no	no
Texas	4 Tex. Code Ann. 415.032	no	no	yes	yes
Tennessee	none				

Utah	Utah Code Ann. 77-36-2(1)	shall have basic knowledge of services and facilities	no	no	no
Vermont	none				
Virginia	SB113	no	no	no	no
Washington	Wash. Rev. Code Ann. 10.99.030 (1)	assistance and services	no	yes	yes
West Virginia	none				
	Code Section	Victim Referrals	Batterer Referrals	Prosecution Assistance Techniques	Evidence Collection
Wisconsin	Wisc. Stat. Ann. 968.075 (8)	no	no	no	no
Wyoming	Wyo. Stat. Ann. 7-20-105	no	no	no	no

Statutory Training Requirements
(Chart 3)

	Code Section	Criminal Law	Civil Law	Impact on Children
Alabama	none			
Alaska	Alaska Stat. 18.65.510	no	protective order information under 18.65.520	no
Arizona	none			
Arkansas	none			
California	Cal. Penal Code 13519	how to assist victims in pursuing criminal justice options	temporary restraining orders; stay away orders; cite and release policies	yes
Colorado	none			
Connecticut	Conn. Gen. Stat. Ann. 7-294g(a) and 46b-38b(f)	enforcement of criminal laws	civil orders	no
Delaware	none			
District of Columbia	D.C. Code Ann. 16-1034(a)	no	no	no
Florida	Fla. Stat. Ann. 943.171	no	no	no
Georgia	Official Code of Ga. 35-1-10	no	no	no
Hawaii	none			

Idaho	Idaho Code 39-6316	stresses enforcement of criminal laws	protective orders; right to sue for losses resulting from abuse	no
Illinois	Ill. Rev. Stat. 85-507	no	no	no
	Code Section	Criminal Law	Civil Law	Impact on Children
Indiana	Ind. Code 5-2-8-5	Arrest guidelines; information and options for victims	enforcement of civil orders; information and options for victims	yes
Iowa	Iowa Code Ann. 80B.11	no	no	no
Kansas	none			
Kentucky	Ky. Rev. Stat. 403.785(2)	no	effective use of protective orders	no
Louisiana	none			
Maine	19 Me. Rev. Stat. Ann. 770(3)	no	no	no
Maryland	none			
Massachusetts	6 Mass. Gen. Laws Ann. 116A	aggressive arrest	service and enforcement of protective orders	no
Michigan	Mich. Compiled Laws Ann. 776.22	no	no	no
Minnesota	Minn. Stat. Ann. 629.341	no	no	no
Mississippi	none			

Missouri	Mo. Ann. Stat. 455.080(3)	no	no	no
Montana	none			
Nebraska	Neb. Rev. Stat. 42-927	basic statutory information	basic statutory information	no
	Code Section	Criminal Law	Civil Law	Impact on Children
Nevada	none			
New Hampshire	none			
New Jersey	N.J. Stat. Ann. 2C:25-20	basic statutory and case law	basic statutory and case law; protective orders information	no
New Mexico	none			
New York	35 NY CLS Gov. 840	no	no	no
North Carolina	none			
North Dakota	N.D. Cent. Code 14-07.1-14	aggressive investigation and arrest	no	no
Ohio	Ohio Rev. Code Ann. 109.744	no	no	no
Oklahoma	none			
Oregon	none			
Pennsylvania	23 Pa. Cons. Stat. Ann. 6105	no	no	no

Rhode Island	R.I. Gen. Laws 12-29-6	no	no	no
South Carolina	none			
South Dakota	S.D. Codified Laws Ann. 23-3-42-1	enforcement of criminal laws	no	no
	Code Section	Criminal Law	Civil Law	Impact on Children
Texas	4 Tex. Code Ann. 415.032	no	no	no
Tennessee	none			
Utah	Utah Code Ann. 77-36-2(1)	no	no	no
Vermont	none			
Virginia	SB113			
Washington	Wash. Rev. Code Ann. 10.99.030 (1)	mandatory arrest	verification and enforcement of civil orders	yes
West Virginia	none			
Wisconsin	Wisc. Stat. Ann. 968.075(8)	no	no	no
Wyoming	Wyo. Stat. Ann. 7-20-105	basic statutory information	basic statutory information	no

**APPENDIX L. NATIONAL SURVEY RELATED TO PROSECUTION OF
FAMILY VIOLENCE CASES**

The following chart presents national effective prosecution techniques and policies, divided by:

- Training and Specialization
- Domestic Violence Training Requirements, Handbooks & Protocols
- Choice Between Model Protocols, Broad Mandates for Individual Office Protocols, and Specific Mandate for Individual Office Protocols
- Creating Individual Office Philosophies and Policies
- Creating Protocols & Responses in Allied Agencies which Support Effective Prosecution
- Substance of Written Standards for Allied Agencies
- Coordinated Response to Domestic Violence Between Prosecutors and Allied Agencies
- Effective Prosecution Techniques
- Overcoming Obstacles to Effective Prosecution and Enforcement
- Evidence Creation, Investigation, and Utilization
- Legal Rules of Evidence
- Substantive Law Considerations
- Show Cause, Bond Hearings and Other Pre-Trial Issues
- Protecting the Victim
- Additional Victims' Rights
- Case Dispositions

National Effective Prosecution Techniques and Policies

Short Title

Proposed Code Section,
Policy or Technique

Training and Specialization

Mandate
Training for
Prosecutors

Florida --

Each state attorney shall develop special units or assign prosecutors to specialize in the prosecution of domestic violence cases, but such specialization need not be an exclusive area of duty assignment. These prosecutors, specializing in domestic violence cases and their support staff shall receive training in domestic violence issues.¹

Each local prosecutor's office in Florida is free to set its own guidelines within the *broad* language of this statute. Larger offices develop specialized units, smaller offices have one resident DV expert, consistent with each office's resources.

DV training is made available by the state bar and the prosecutor's association, it fulfills 5 to 10 credits of the 30 Continuing Legal Education (CLE) credits required over 3 years. Local prosecutor's offices such as the one in Jacksonville require 2 training sessions in family violence per year, in addition to speakers that they have come in from time to time. Other offices set different requirements, consistent with resources. The cost has been the same for that of any other CLE initiative.

When asked if the mandated courses were justified, the prosecutor interviewed in the DV unit thought the results they had yielded had justified their existence. She had seen quantifiable results and said that, with such a vast number of reluctant witnesses it was very encouraging for the prosecutors to learn how to successfully prosecute the case anyway. The prosecutor strongly recommended Florida's approach.²

Encourage (not
mandate)
Training for
Prosecutors

Rhode Island -- Provides that probation officers and all judicial personnel must receive training in DV.³ Prosecutors are not *required* to take these courses.

The state is encouraging DV training by 1) developing training programs through VAWA grant, 2) offering DV CLE just before the CLE deadline, resulting in large numbers of attorneys taking the course, 3) DV CLE is worth 4.5 of 10 required.⁴

¹ Judge Jay B. Roman, *Domestic Violence: Recent Amendments to the Florida Statutes*, 20 Nova L. Rev. 117 (1995). SEE FOOTNOTE 106-107. Subsection 741.2901(1) of the statute was quoted above.

² Telephone interview with Shauna Wright, Duty Attorney, Special Assault Unit, Attorney General's Office of Jacksonville, Florida, by Daniel Rodgers, June 26, 1996.

³ Bob Hohler, *State Judges Lag in Training on Domestic Violence Cases*, Boston Globe, Nov. 5 1993, at 1.

National Effective Prosecution Techniques and Policies

Short Title	Proposed Code Section, Policy or Technique
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<p>Some Prosecutor Training Available</p>	<p>Virginia -- Virginia requires 12 hours of CLE credit a year. The VA State Bar Association offered a 3 hour DV CLE course geared toward Guardian Ad Litem as part of its pro bono workshops.⁵ About 75 - 85 people attended this year.</p> <p>An unrelated skeletal training curriculum was developed in 1994 through DCJS. It should be augmented, with particular attention paid to areas such as effective evidentiary techniques, for example. A grant has been given to the Commonwealth's Atty's Services Council to coordinate the development of a CA DV handbook.⁶ That project is on the drawing board with an indefinite time frame and, as yet, no writer.⁷</p> <p>Michigan -- Training is not required, though it is encouraged. CLE is not required in that state so it is more difficult to get prosecutors to train. Developed through a grant from the Center for Disease Control. Prosecutors which want to learn more about DV attend. Others do not.⁸</p>
<p>Require Training for Judges or Magistrates</p>	<p>West Virginia -- Authorizes judges and requires magistrates to complete yearly training programs.⁹</p> <p>Despite changes by police and prosecutors, the criminal justice system's lasting impact on domestic violence will depend largely on the attitude judges convey to the parties and how courts ultimately dispose of these matters.¹⁰</p> <p>Article documents a number of judicial horror stories where it was clear that the reason a victim was murdered was because a judge misunderstood the problem of DV and did not respond appropriately with accountability for the abuser.¹¹</p>

⁴ Telephone interview with Lori Samczepkowski, Prosecution Coordinator for the Attorney General of Rhode Island, Providence, RI, by Daniel Rodgers, June 26, 1996.

⁵ Telephone interview with the VA State Bar Association, June 26, 1996, by Daniel Rodgers.

⁶ Telephone interview with Stacy Ruble, VA Dept. of Criminal Justice Services, June 26, 1996, by Daniel Rodgers.

⁷ Telephone interview with Jim Chin, Acting Administrator, Commonwealth's Attorneys Services Council, June 26, 1996, by Daniel Rodgers.

⁸ Telephone interview with Tom Smith, Ingham County Prosecutor's Office, Lansing, Michigan, June 25, 1996, by Daniel Rodgers.

⁹ W. Va. Code § 48-2A-13 (Supp. 1992).

¹⁰ _____, Developments in the Law IV. Making State Institutions More Responsive, 106 Harv. L. Rev. 1551, 1556 (1993).

¹¹ Jo Lynn Southard, Protection of Women's Human Rights Under the Convention on the Elimination of All Forms of Discrimination Against Women, 8 Pace Int'l L. Rev. 88 (1996).

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<p>Require Training for Allied Professionals</p>	<p>Florida -- trains allied professionals of prosecutors. For example, in order to make the excited utterances hearsay exceptions work in court, Florida has set standards for its 911 operators (ask certain questions, save tapes for a period of time, be able to identify the victim, etc.). The basis for working together and gaining these standards has been through community level domestic violence task groups that bring together all of the various community agencies, DV judges, prosecutors and other decision makers.¹²</p>
<p>Availability of Specialized Prosecutors</p>	<p>Virginia -- All DV felonies must be prosecuted by law, misdemeanors are discretionary. Some larger jurisdictions have specialized J&DR units, smaller jurisdictions usually do not. The number of prosecutors specialized in family violence prosecution is a relatively small subset, and generally a function of the commitment of the Commonwealth's Attorney or Assistant CA in that jurisdiction as well as resources.</p> <p>Through 1997, 149 new J&DR positions will be filled. "[T]he Commonwealth's Attorney shall certify to the Compensation Board that the position or the positions, if allocated by the Compensation Board, will be solely devoted to the prosecution of delinquency, and domestic relations felony cases, as defined in this section."¹³</p> <p>Florida -- By statute, larger offices shall establish specialized domestic violence prosecution units, smaller offices shall train at least one prosecutor in effective domestic violence prosecution.</p>
<p>If Prosecutors Cannot Be Made Available, Provide for the Availability of Pro Bono Counsel</p>	<p>Proposal --</p> <p>With local law and budget constraints limiting the court's ability to pay fees to counsel, pro bono counsel should, at a minimum be appointed from a court-maintained list of attorneys trained in the area of domestic violence to represent the survivor who is seeking to enforce her protective order. The court or the bar should provide training in this area for these attorneys. In any event, thrusting the burden of enforcement of civil protection orders upon the survivor, without assuring that she will be represented, is both unrealistic and ineffective.¹⁴</p> <p>Virginia -- Allows for private attorneys to serve as pro bono prosecutors, under the auspices of the Commonwealth's Attorney's Office. Some judges allow private prosecution, though this is disfavored by the AG's opinion, some members of the General Assembly, and some Commonwealth's Attorneys. Some bars, such as the</p>

¹² Telephone interview with Shauna Wright, *supra*.

¹³ 1996 Virginia Acts of Assembly, Chapter 912, Item 74.E.5., Approved April 17, 1996.

¹⁴ 6 Hastings Women's L.J. at 360 (footnotes omitted).

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	Virginia Beach Bar Association maintain lists of pro bono attorneys willing to help. ¹⁵ Thus far, no court maintained list of private attorneys has been located.
Federal Funds Available for Training and Specialized Prosecution	Federal Violence Against Women Act -- 1.62 billion dollars are available to states for community action, including training of prosecutors and police. ¹⁶
Normative statement	<p>Proposal --</p> <p>It must be an honor, rather than a dead end career, for a prosecutor to serve in the bureau that handles cases involving violence against women. . . . We must train our prosecutors to be as skilled at crimes against women as they are in crimes against property.¹⁷</p>
DV Training Requirements, Handbooks and Protocols	
Status of VA DV Prosecution Training Manuals and Handbooks	<p>Virginia -- Prosecution training in DV is not required. Prosecutors may take CLE credit in DV from time to time. However, it is unclear whether a course especially geared toward the unique needs of prosecutors and the effective prosecution of DV has been offered.</p> <p>The Virginia Manual for Prosecutors and Allied Professions produced in part through DCJS includes</p> <ul style="list-style-type: none"> • General overview of domestic violence • Pro-arrest and evidence gathering (but no instruction concerning interface with medical evidence gatherers,¹⁸ for example, and no generalized policy concerning pro-prosecution stances) • Brief outline sketch on case preparation (requires considerable spoken interpretation, or an increase in material presented) • Using children as witnesses

¹⁵ Telephone interview with Judith Rosenblatt's legal assistant; Ms. Rosentblatt is president of the Virginia Beach Bar Association, May, 1996, by Daniel Rodgers.

¹⁶ Michelle W. Easterling, For Better or Worse: The Federalization of Domestic Violence, 98 W. Va. L. Rev. 933, 934 (1996)

¹⁷ 16 Pace L. Rev. 1, 3 (1995).

¹⁸ See, e.g. Virginia's Hospital Protocol for the Treatment of Sexual Assault Victims, 34, 35, 45 (1990) (examples of important evidentiary considerations not covered: chain of evidence considerations, or date of last voluntary coitus and how failure to note may create evidence that conflicts with the victims' testimony in rape cases, interviewing techniques for children, etc.).

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	<ul style="list-style-type: none"> • The Battered Woman Syndrome and Self-Defense, with some illustrative, though out of state, cases (no VA case finder exists for DV prosecution) • Plea Agreements (does not incorporate latest effective prosecution findings such as deferred sentencing. Does not provide criteria for determining when a plea is appropriate), and • Marital Sexual Crimes (does not incorporate latest developments in Marital Rape or Stalking legislation and case law).¹⁹
<p>Handbooks and Protocols Received to Date</p>	<p>Training Manuals are being gathered from across the Nation for Comparison Purposes and Possibly for Adaptation to Virginia's Commonwealth's Attorneys' Needs. Manuals referenced or received to date include:</p> <ul style="list-style-type: none"> • San Diego City Attorney's Office – comprehensive²⁰ manual/protocol widely recognized as one of the outstanding programs in the nation. Includes overview of DV, and substantial sections on investigation, working with police officers, civil remedies, charging criteria, case preparation, including how to work with the victim to preserve her as a witness and insure her safety, pre-trial motions, prior violence, jury selection, trial issues, such as strategy for case, developing hearsay exceptions, cross examination, witnesses and child witnesses, anticipating defenses, and closing arguments. Manual also includes post trial issues, such as sentencing, probation and parole, restitution, and crime victim compensation. Manual is particularly valuable because it includes self-testing and check lists. <p><i>The San Diego manual has put resources at the prosecutor's finger tips in a concise manner. It is being adapted by many other leading edge prosecutor's offices throughout the nation. It could be augmented by greater focus on felonies; a case finder and greater statutory analysis could also be added to increase its usefulness.</i>²¹</p> <ul style="list-style-type: none"> • Florida State Bar – has created a six hundred page case finder and analysis, drawing not only from Florida, but from other states and the nation as well. It is being adapted to use by other states. Because Florida requires training, it may be the most advanced state in terms of training materials and programs.

¹⁹ This break down of topics is given after perusal and consideration of the material. It does follow the order in which the material is presented, however, it does break some sections down into two parts, and uses the descriptive titles. Domestic Violence Training Manual for Prosecutors and Allied Professionals (1984).

²⁰ Comprehensive, but not exhaustive.

²¹ Note that while the City Attorney's office here discussed prosecutes the misdemeanors, the San Diego prosecutor's office prosecutes the felonies. The Office of Deputy Attorney General Gary Shawn, San Diego, has reviewed data that this is an inefficient and costly division of labor. However, this entrenched division is unlikely to change in the near future.

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- **Massachusetts** -- Manual emphasizes the use of hearsay techniques, such as the excited utterance exception, to overcome the problem of the reluctant witness.²²
- **Alexandria, Va.** -- **Concise protocol with comprehensive approach.** Includes standards for victim assistance through VWAP, case workers, police officers and ACAs. Anti-drop policy, with deferred sentencing, suspended sentencing, or continuance options. CA takes the responsibility for proceeding, to protect the victim. Includes monitoring and non-compliance procedures. Alexandria also employs a DV intervention project that targets the twenty-five (and soon fifty) most wanted abusers. From the moment of a 911 call, the case is treated differently. A homicide type investigation is dispatched and intense documentation of evidence begins. It is expected that the witness will be reluctant. Prosecution and conviction rates of formerly nolle pros type cases have risen sharply.
- **Duluth, Minnesota** -- **Concise protocol.** A pioneer in effective prosecution. Went from a dismissal rate of near 80% to a victim satisfaction rate of over 80% over a 10 year period. Protocol explains goals (victim safety, and deterrence), policies of pro-prosecution, speedy prosecution, victim protection, subpoena to protect victim from coercion, criteria for plea agreements, consultation with and notice to victim and shelters, prosecutors duty to review all police investigation reports which did not result in arrest, victim rights and obligations, pre-trial issues, explanation of civil options, and advocacy for these civil options.²³ Furthermore, DAIP monitors and enforces protective orders, so victims do not have to.²⁴
- **Chicago Protocol** -- **concise but incomplete standards.** Includes pre-trial issues, civil remedies (prosecutor's should be involved in helping the victim obtain these). Covers problems issues such as dealing with a reluctant witness (anti-drop policy), mediation and counseling (not appropriate unless requested by the victim), and case dispositions. Deferred prosecutions are strongly disfavored, as they "decriminalize" DV.
- **Federal Prosecution under the Violence Against Women Act of 1994 (VAWA) -**
- **Manual still in development.** VAWA makes it a federal crime to cross state

²² 80 Mass. L.Rev. 45.

²³ Mary E. Asmus, et al., Prosecuting Domestic Abuse Cases in Duluth: Developing Effective Prosecution Strategies from Understanding the Dynamics of Abusive Relationships, Appendix B, Prosecution Guidelines, Duluth, Minnesota, Vol. 15 Hamline L. Rev. 115 - 166 (199x).

²⁴ N. Cahn, Innovative Approaches to the Prosecution of Domestic Violence Crime: An Overview, (19xx).

²⁵ 6 Hastings Women's L.J. 339, 345, fn23 (19xx).

²⁶ Pamela A. Paziotopoulos, The Violence Against Women Act, Federal Relief for State Prosecutors, The Prosecutor, 20, 25, May/June 1996.

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	<p>lines with the intent to injure a spouse or another intimate party when such action results in bodily injury.²⁴ It enhances other penalties, and victim rights. VAWA makes money available for specialized prosecution units, pro-arrest policies, etc. <i>Local prosecutors need to be trained on VAWA so that they can coordinate with federal authorities and resources when VAWA cases arise.</i>²⁵</p> <ul style="list-style-type: none"> • American Prosecutor Research Institute: Complete manual still in early stages of development toward a domestic violence prosecution training handbook and seminar. Has produced general materials on understanding DV, working with reluctant witnesses, VAWA, coordinating councils, etc.
<p>The Choice between Model Protocols, Broad Mandate for Individual Office Protocols, and Specific Mandate for Individual Office Protocols.</p>	
<p>Model Protocol</p>	<p>Pennsylvania -- developed a model prosecution protocol through the Pennsylvania Coalition Against Domestic Violence. Code has had mottled results. Many prosecutor's offices in Pennsylvania, such as the Philadelphia office, have not adapted any portion of it in writing.²⁶ <i>From PA's experience, it is clear that if a model prosecution protocol is developed, it must have the strong support of the Commonwealth's Attorneys, and the commitment of individual offices to adapt it in writing to their needs.</i></p> <p>Pa. model prosecution protocol includes the goals of prosecution (safety, deterrence, accountability . . .), requirement of prosecutor specialization, early and consistent contact with victim, speedy prosecution, working with victim advocates, standards for moving forward and procedure when not moving forward, investigation and evidence gathering. Also details pre-trial issues, protecting the victim, civil remedies (prosecutor should request protective orders for victims), victim's rights, and dispositions. <i>The Pa. protocol provides concise statements of protocol ideals</i></p>
<p>Broad State Mandate for Individual Office Policies</p>	<p>Florida --</p> <p>Each state attorney shall develop special units or assign prosecutors to specialize in the prosecution of domestic violence cases, but such specialization need not be an exclusive area of duty assignment. <u>These prosecutors, specializing in domestic violence cases and their support staff shall receive training in domestic violence issues.</u>²⁷</p>

²⁶ Telephone interview with Philadelphia office Administrator, June 25, 1996, by Daniel Rodgers.

²⁷ Judge Jay B. Rosman, Domestic Violence: Recent Amendments to the Florida Statutes, 20 Nova L. Rev. 117, fn 106, 107 (1995). Subsection 741.2901(1) of the statute was quoted above.

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	<p>Each local prosecutor's office in Florida is free to set its own guidelines within the broad language of this statute. Larger offices develop specialized units, smaller offices have one resident DV expert, consistent with each office's resources.</p> <p>DV training is made available by the state bar and the prosecutor's association, it fulfills 5 to 10 credits of the 30 Continuing Legal Education (CLE) credits required over 3 years. Local prosecutor's offices such as the one in Jacksonville require 2 training sessions in family violence per year, in addition to speakers that they have come in from time to time. Other offices set different requirements, consistent with resources. The cost has been the same for that of any other CLE initiative.</p> <p>When asked if the mandated courses were justified, the prosecutor interviewed in the DV unit thought the results they had yielded had justified their existence. She had seen quantifiable results and said that, with such a vast number of reluctant witnesses it was very encouraging for the prosecutors to learn how to successfully prosecute the case anyway. The prosecutor strongly recommended Florida's approach.²⁸</p>
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<p>More Specific Mandate for Individual Office DV Policies</p>	<p>Model Code recommended for states to adopt²⁹ --</p> <p>On or before <u>insert appropriate date</u>, the prosecuting attorney in <u>insert appropriate jurisdiction</u> shall develop or adopt and put into effect written procedures for attorneys who prosecute crimes of domestic and family violence concerning:</p> <ol style="list-style-type: none"> 1. Effective prosecution of such crimes; and 2. The protection and safety of victims of domestic and family violence.³⁰ <p>Model written procedures are provided as well in the Model Code.</p>
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Creating Individual Office Philosophies and Policies

<p>The Commonwealth and/or each Commonwealth's Attorneys Office should</p>	<p>Colorado --</p> <ol style="list-style-type: none"> 1. The Commitment [to provide safety for victims, accountability for abuser, and system integrity.³¹] 2. Researching the DV issue <ul style="list-style-type: none"> [a. realistic assessment of the existing patterns of all involved agencies and personnel interactions
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²⁸ Telephone interview with Shauna Wright, Duty Attorney, Special Assault Unit, Attorney General's Office of Jacksonville, Florida, by Daniel Rodgers, June 26, 1996.

²⁹ Louis W. McHardy, Executive Director, The National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, 12 (1994)

³⁰ *Id.*

³¹ Commission on Family Violence Prevention Guiding Principles.

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Engage in the Six Steps of Developing an Effective Policy	<p>b. the substantive issue through professional lit.]</p> <p>3. Develop and Commit to a Philosophy and Policy Statement</p> <p>4. Assess Organizational Capabilities (number of personnel available, victim services available, services and personnel in criminal justice and community agencies available to work with the new policy and procedures [including volunteers], formal and informal policies and procedures in place relating to DV).</p> <p>5. Develop Procedures and Protocols . . . Procedures and protocols should include: training of all personnel, relevant legislation, coordination with police and probation policies, drop/no drop policy, coordination with expert witnesses, case processing [special court, time, etc.], sentencing options [diversion, jail, restitution, counseling], resources for victims, plea bargaining parameters and options, court room process [i.e., presence of victim at arraignment, pretrial conference, sentencing, etc.], responsibility for treatment costs, no contact orders, issuing of subpoena to victim if trial is set, sentencing guidelines, length of time from arrest to arraignment, pretrial conference, trial, sentencing, revocation, bond hearing and setting, revocation hearing, forms.</p> <p>6. Resource Management: designate someone from within to coordinate efforts.³²</p>
Develop Prosecutorial Philosophy Statement	<p>Colorado -- Proposal, based on experience in developing prosecutorial philosophy for Aurora, Co., City Attorney's Office:</p> <p>Spousal abuse is a <i>crime</i> against individuals and society. Abusers must face the consequences of their crimes.</p> <p>Spousal abuse crosses all socio-economic borders and is learned behavior that is passed from generation to generation and reinforced by the historical inequality between men and women. Battered women need advocates of their needs and rights in order to remove historical barriers to justice. Sanctuary for victims is essential.</p> <p>The criminal justice system as the social system which controls and monitors violent behavior, is the appropriate system to address the immediate needs for victim safety and control of violent behavior by abusers.³³</p>
Develop Prosecutorial	Colorado -- Proposal based on experience in developing a policy statement for Aurora, Co, City Attorney's Office:

³² *Op cit.* at 15 - 20.

³³ Jan Mickish, Ph.D., and Kathy Schoen, J.D., Assistant Prosecuting Attorney, Aurora, Co., Domestic Violence: Developing an Effective Policy, *The Prosecutor*, Vol. 21, No. 3, 15 (Winter 1988) (citing Project Safeguard, Denver, Co. in a discussion of the implementation of an effective prosecution policy in Aurora, Co.).

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<p>Policy Statement</p>	<p>All cases of domestic violence will be treated as alleged criminal conduct. A person who commits domestic violence has committed a crime against the state (city, county). Perpetrators should receive consistent, direct, clear messages of the criminal nature of domestic violence, and that they are responsible for their behavior, regardless of alleged "provocation."</p> <p>All perpetrators should receive appropriate criminal sanctions as well as monitored treatment for domestic violence. All victims should receive appropriate supportive services.</p> <p>[The article continues]</p> <p>Also included in the statement should be: Definition of DV that fits the scope of the policies...; a statement concerning the cyclical nature of DV; a statement concerning the lethality of DV, including a "lethality scale."; list of factors that should <i>not</i> be taken into account (i.e., socio-economic status, nature and extent of victim cooperation/non-cooperation with the department) -- the common excuses for not following through with enforcement of the law.³⁴</p>
<p>Developing Statewide Mandate or Purpose that Extends to Individual Office Philosophy and Protocols</p>	<p>Florida -- Addressing the legislature's concern with removing the historical viewpoint that domestic violence is a private matter to be kept within the domain of the family:</p> <p>It is the intent of the Legislature that domestic violence be treated as an illegal act rather than a private matter³⁵ The state attorney in each circuit shall adopt a pro-prosecution policy for acts of domestic violence. The filing, nonfiling, or diversion of criminal charges shall be determined by these specialized [in domestic violence] prosecutors over the objection of the victim if necessary.³⁶</p>
<p>Translating this Statement into Individual Office DV Prosecutorial Stance</p>	<p>Florida -- As the Code section above shows, Florida state law requires the state attorney's office to take a pro-prosecution stance in all cases and to investigate the defendant's history.³⁷</p> <p>Michigan -- If a protective order is violated, the court initiates a criminal contempt proceeding. Prosecutors are <i>required</i> to prosecute these, unless the petitioner retains</p>

³⁴ *Op Cit.* at 19.

³⁵ Portion of the Code previously prohibiting the judiciary to use indirect contempt charges to enforce protective orders has been removed by a 1995 amendment. 20 Nova L. Rev. 117.

³⁶ 20 Nova L. Rev. 117.

³⁷ *Id.*

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	<p>an attorney. Also, if appropriate, the prosecutor may elect to proceed with other criminal charges rather than a contempt proceeding (e.g., stalking, family abuse, etc.)³⁸</p>
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Creating Protocols and Responses in Allied Agencies which Support Effective Prosecution

<p>Police Standards</p>	<p>Virginia -- A 1991 DCJS Survey showed that, of the 94 agencies that responded, 34% had written policies, 25% had "unwritten" policies, and 41% had no official policy.³⁹ Departments with exemplary policies include the Virginia Beach Police and the Fauquier Sheriff's Department.</p> <p>Michigan -- each police agency through out the state is required to develop and implement a written policy for officers to use in responding to DV calls. Police agencies were required to consult both with prosecutors and DV shelters in developing these protocols.⁴⁰</p>
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<p>Required Written Policies and Procedures for All Law Enforcement Agencies</p>	<p>Model Code recommended for the states -- On or before <u>insert appropriate date</u>, each law enforcement agency shall develop or adopt and put into effect written policies and procedures concerning:</p> <ol style="list-style-type: none"> 1. The effective response of the agency to cases involving domestic and family violence. 2. Enforcement of the <u>Model Code and other applicable state statutes concerning domestic and family violence.</u> 3. Protection and safety of the victims of domestic violence and other family and household members. 4. Coordination with hospitals and programs for victims of domestic or family violence.⁴¹
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Substance of Written Standards for Allied Agencies

<p>Police</p>	<p>Pennsylvania -- Proposed protocol:</p>
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³⁸ 74 Mich. B.J. 931.

³⁹ Department of Criminal Justice Services, in cooperation with Commonwealth's Attorneys' Services Council, Domestic Violence Resource Manual, Domestic Violence Training for Prosecutors and Allied Professionals, 12 (1994).

⁴⁰ Matthew J. Weisse, prosecuting attorney for Marquette County, MI., 74 Mich. B.J. 930 (19xx).

⁴¹ National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, at 21.

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Standards Include Filing of Charges on Behalf of Victim	Law Enforcement should file charges on behalf of the victim of family abuse. ⁴²
Coordinated Response to Domestic Violence between Prosecutors and Allied Agencies	
Coordination Boards	<p>Chesterfield, VA -- When asked what the most important thing lacking in the response to domestic violence, Chesterfield J&DR Court Judge Hendrick replied: someone with the authority to coordinate the actions of all the agencies and groups involved into a coherent and effective response. Lacking that, he and ACA Ginny Duvall helped Chesterfield create a Coordination Board.</p> <p>Virginia -- has developed a Community Planning Guide through the Commission on Family Violence Prevention, and is developing a more effective coordinated community response through the Community Awareness and Response Task Group of the Commission.</p> <p>Michigan -- Michigan has established a Domestic Violence and Treatment Board (DVTB) through its Department of Social Services (DSS). It coordinates its efforts with the Prosecuting Attorneys Association, as well as the State Bar, the MI Law Enforcement Officers Training Council, and the State Medical Society.⁴³</p> <p>The DVTB is charged with coordination and monitoring of prevention and treatment services, developing standards for those services, developing training for professionals, and advising the Legislature and the Governor about the problem of domestic violence and the needs of victims. It also provides funding to community DV programs.⁴⁴</p>
Individual Coordinators	<p>Aurora, Colorado -- Recommendation that an individual within the prosecutorial system be given the authority to coordinate resources.⁴⁵</p> <p>Chesterfield, VA -- J&DR court Judge Hendrick suggests that an individual</p>

⁴² PCADV Prosecution Protocol at 5.

⁴³ 74 Mich. B.J. 930.

⁴⁴ *Id.* at 930, 931.

⁴⁵ Jan Mickish, Ph.D., and Kathy Schoen, J.D., Assistant Prosecuting Attorney, Aurora, Co., Domestic Violence: Developing an Effective Policy, *The Prosecutor*, Vol. 21, No. 3, at 19, 20 (Winter 1988).

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	coordinator with authority and resources to coordinate all involved agencies could be a superior method of coordination. ⁴⁶
Coordinated Response Between Judges, Prosecutors and Others	<p>Normative statement --</p> <p>For criminal sanctions to work, the prosecutor and judge . . . must commit themselves to enforcement. It does no good for the prosecutor to aggressively pursue enforcement if the judge will acquit or provide exceptionally lenient sentences.⁴⁷</p>

⁴⁶ Interview with Judge Hendrick by Daniel Rodgers, winter, 1996.

⁴⁷ 6 Hastings Women's L.J. at 358.

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Effective Prosecution Techniques	
<p>Selective Response: Target Domestic Violence: A Top 25 Worst Abusers List</p>	<p>Alexandria, VA -- Victim/Witness Program (VWP) asks Criminal Information Network (CIN) for most often arrested abusers. These top 25 abusers are placed on a list. From the moment a new 911 call comes in, police are alerted, and respond with intense investigation. Homicide detectives come to the scene, pictures are taken, etc. VWP has early contact with the victim to support her and provide resource access. Prosecutors respond to the full extent of the law, and are prepared to proceed with or without the assistance of the victim.⁴⁸</p> <p>Pennsylvania -- proposed protocol: Repeat offenders should be readily identifiable.⁴⁹</p>
<p>Early and Consistent Contact with Victim</p>	<p>Alexandria -- Early contact is made with the victim through the Victim/Witness Program.⁵⁰</p> <p>Pennsylvania -- The same is proposed.⁵¹</p>
<p>Speedy Prosecution</p>	<p>Alexandria -- Family abuse cases are heard three times each week. The typical family abuse case in J&DR Court takes about two weeks to come to trial.⁵² This compares favorably to the average 90 - 120 days it takes for a family abuse case to come to court, if at all, in other jurisdictions.</p> <p>Pennsylvania -- from proposed Model Protocol: Victims are often more willing to cooperate immediately after the incident than later when the abuser may have had a chance to regain control over them. Therefore, the prosecutor should strenuously object to any unnecessary continuances.⁵³</p>
<p>Work with Victim Advocates</p>	<p>Virginia -- Court Service Units surveyed reported almost unanimously that where a program, formal or informal, had been instituted for working with victim advocates, that services to victims of abuse improved.⁵⁴</p>

⁴⁸ Virginia Coscia, VWP Coordinator for Alexandria, VA. May 10, 1996 Effective Prosecution Task Group Meeting.

⁴⁹ PCADV at 11.

⁵⁰ Virginia Coscia, VWP Coordinator for Alexandria, VA. May 10, 1996 Effective Prosecution Task Group Meeting.

⁵¹ PCADV Prosecution Protocol at 11.

⁵² Virginia Coscia, May 10, 1996.

⁵³ PCADV Prosecution Protocol, 3.

⁵⁴ Daniel Rodgers, Commission on Family Violence Prevention, Supreme Court of Virginia, Telephone Survey of Court Service Units in Virginia, Conducted October through December, 1995.

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	Pennsylvania -- Proposed protocol. ⁵⁵
Vertical Prosecution	California -- Spurred by the impetus of the O.J. Simpson case, CA has enacted Chapter 140, establishing the intent to provide funds for vertical prosecution. ⁵⁶ In vertical prosecution, the all of the victim's and abuser's cases are handled by one prosecutor. This allows a consistent response and a familiarity between the victim and the prosecutor that results in greater trust and more effective prosecution.
Overcoming Obstacles to Effective Prosecution and Enforcement	
Reluctant Victims- Witnesses: Steps Prosecutors Should Take	<p>Pennsylvania proposed protocol --</p> <p>The prosecutor should</p> <ol style="list-style-type: none"> 1. Have a face to face meeting with the victim. Gain an understanding of the victim's concerns. Make the victim and defendant understand that the decision to proceed or not to proceed rests with the Commonwealth. This may relieve pressure from the abuser to drop charges. If the victim is still reluctant, the prosecutor should consider proceeding without cooperation, based upon the defendant's prior criminal history, D's history of violence against this victim, the severity of the offense, the risk the D poses to third parties and the community at large, the risk posed to the victim if prosecution proceeds, v. the risk posed to her by dismissal. 2. Consult with the Victim's Advocate 3. Consider refusing to dismiss until time of trial 4. Future prosecution: When a dismissal is granted, the prosecutor should advise the victim that the dismissal will not be held against her and that the office of the prosecutor stands ready to assist and prosecute any future domestic violence crimes.⁵⁷
The Reluctant Witness: If the Victim will not Testify, Prosecutors Shall Still Proceed	<p>Rhode Island --</p> <p>If the victim is unwilling to testify, the state will not automatically dismiss the case. Instead, the prosecutor may offer independent corroborating evidence such as : 1) the testimony of witnesses to the crime; 2) photographs of the victim's injuries and/or the crime scene; 3) medical records and emergency medical technician's records documenting injuries; 4) excited utterances made by the victim to the police, paramedics, hospital personnel, independent witnesses, or on 911 calls. The victim's statements may also be admissible as present sense impressions; 5) declarations of the existing mental, emotional or physical conditions made by the victim to any witness; 6) physical evidence,</p>

⁵⁵ PCADV Prosecution Protocol, 3.

⁵⁶ 26 Pac. L.J. 381.

⁵⁷ PCADV Prosecution Protocol, 10.

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	<p>such as damaged walls, bloody clothing, etc.; 7) telephone records, telephone answering machine tapes and 911 tapes; and 8) employee records of the victim regarding work absences or medical benefits utilized.⁵⁸</p> <p>Illinois -- In an effort to ease the burden on the victim, many prosecuting agencies have attempted to shift the burden of pressing charges to the State. If a victim wishes to drop charges, the standard response by both the prosecution and the court is that the State of Illinois is prosecuting the case intends to proceed to trial. The prosecuting agencies will then consider dismissing the charges only when the credibility of the victim is in doubt or when the victim will testify substantially differently from her prior statements or police reports. Even so, however, the prosecutor generally needs supervisor approval for such a dismissal.⁵⁹</p> <p>Florida -- The filing, nonfiling, or diversion of criminal charges shall be determined by these specialized [in domestic violence] prosecutors over the objection of the victim if necessary.⁶⁰</p> <p>Los Angeles, California The most effective approach to a domestic violence case is to investigate the case in such a way that it would still be prosecutable even if the victim does not cooperate. . . . A high percentage of domestic violence cases could be and should be prosecuted without victim cooperation. . . . After all, murder cases are prosecuted when no victim testifies. . . . Prosecution of domestic violence cases does not rely wholly upon the victim, but instead, pins itself upon solid investigation and testimony of law enforcement.⁶¹</p>
<p>Reluctant witness: effective use of hearsay exceptions</p>	<p>Massachusetts -- In the case of reluctant witnesses, emphasize the use of hearsay evidence through exceptions such as the excited utterance exception, etc.⁶²</p>
<p>The Reluctant</p>	<p>Illinois -- State will subpoena reluctant witness to testify. If she does not show up at</p>

⁵⁸ 44-Dec RIBJ 13 (19xx)(Westlaw)(footnotes omitted).

⁵⁹ 26 Loy. U. Chi. L.J. 677.

⁶⁰ 20 Nova L. Rev. 117.

⁶¹ Lydia Bodin, Los Angeles District Attorney's Office, Prosecution, Law Enforcement Response to Domestic Violence Telecourse 106 (Sept. 9, 1993).

⁶² 80 Mass. L. Rev. 45.

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Witness: Court Penalties to Compel Testimony	<p>court, the prosecutor requests a rule to show cause and contempt proceedings are begun. If the victim still does not show, the state may issue a writ of attachment, and the court may decide whether the victim should be arrested or held in jail on the contempt charge.⁶³</p> <p>Rhode Island -- Despite interspousal testimonial privilege, court may order victim/spouse to testify against defendant/spouse. Victim may be subject to criminal charges for filing a false report of crime. Victim may be held in contempt of court.⁶⁴</p> <p>Elsewhere -- Victim may be subject to charges of perjury. However all penalties for the victim are the subject of considerable debate, since the object of prosecution is to hold the abuser accountable, not to punish the victim.</p>
The Reluctant Witness: Other Court Action to Encourage Reluctant Witness to Testify	<p>Proposal -- Judges and magistrates can maintain necessary impartiality while still understanding the dynamics of family violence and referring reluctant witnesses or petitioners to shelters, victim advocates, prosecutors and victim/witness programs. These will do what the judges and magistrates cannot: support the victim and help her move toward safety and accountability for the abuser.⁶⁵</p>
Docketing Issues	<p>General empirical and anecdotal evidence -- docketing delays and defense attorney strategies of long case continuances sap a victim's will to prosecute and testify.⁶⁶</p> <p>Proposed Solutions:</p> <p>Alexandria -- "Rocket docket" takes only two weeks for a DV case to come to trial.</p> <p>Aurora, Co --</p> <p>The crux of the policy is that the defendant is cited into court the next court day and the victim is subpoenaed by the police officer at the scene for appearance in court at the same time as the defendant's arraignment.⁶⁷</p>
Intimidation of the Victim Outside of Court	<p>Empirical and anecdotal evidence -- Opposing attorneys may intimidate and wear down victim's resolve to testify. Abuser may also intimidate victim.</p> <p>Proposed Solutions -- Take away some of opposing attorney's incentive to talk to</p>

⁶³ 26 Loy. U. Chi. L.J. 677.

⁶⁴ 20 Nova L. Rev. 117.

⁶⁵ Hon. Hollis L. Webster, Enforcement in Domestic Violence Cases, 26 Loy. U. Chi. L.J. 663, 667 (1995).

⁶⁶ 6 Hastings Women's L.J. 355.

⁶⁷ Jan Mickish, Ph.D., and Kathy Schoen, J.D., Assistant Prosecuting Attorney, Aurora, Co., Domestic Violence: Developing an Effective Policy, The Prosecutor, Vol. 21, No. 3, at 17 (Winter 1988).

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	victim by taking the burden of going forward with the case onto the State. Create penalties for defense attorney speaking to victim without the presence of a victim advocate or the prosecutor. In answer to threats from the abuser, make available remedies for threats alone, as Michigan has done through protective orders. Vigorously enforce penalties against abuser for intimidation.
Protective Orders Violations Should be Prosecuted as a Matter of Course	<p>Proposal -- Violation of a protective order is a crime. Prosecutors should be responsible for enforcement, and immediate prosecution upon a substantiated police report of a violation.</p> <p>Some states allow or require prosecutors to direct the victim to obtain a civil or criminal protective order in the first place.</p>
Evidence Creation, Investigation, and Utilization	
Police Investigation: Time Limit, Report for Prosecutor's Use, and Requirements	<p>Michigan -- Police are required to write DV reports and provide a copy to the prosecutor within 48 hours of investigating or intervening in a domestic dispute.⁶⁸</p> <p>Alexandria, VA -- Police fill out a report of the twenty-five questions prosecutors most need answered in order to effectively prosecute a family violence case.⁶⁹</p> <p>Virginia -- Domestic Violence for Prosecutors and Allied Professionals manual instructs police to 1. look for physical injuries, 2. take statements from the victim and the assailant, 3. take statements from witnesses, 4. collect any other physical evidence (photos of both disputants, damage to furniture, etc.).⁷⁰ This training is not mandatory, and it is unknown whether any police departments have trained with it.</p>
Prosecution Investigation and Presentation to Judge	<p>Florida --</p> <p>Prior to a defendant's first appearance in any charge of domestic violence as defined in s. 741.28, the State Attorney's Office shall perform a thorough investigation of the defendant's history, including, but not limited to: prior arrests for domestic violence, prior arrests for nondomestic charges, prior injunctions for protection against domestic and repeat violence filed listing the defendant as respondent and noting history of other victims, and prior walk-in domestic complaints filed against the defendant. This information shall be</p>

⁶⁸ MCL 764.15c., as described in 74 Mich. B.J. 931.

⁶⁹ Commonwealth's Attorney John Kloch, Effective Prosecution Task Group presentation, May 10, 1996.

⁷⁰ Domestic Violence Reference Manual, *supra*, at 15.

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	<p>presented at first appearance, when setting bond, and when passing sentence, for consideration by the court. . . .⁷¹</p> <p>Michigan -- prosecutors, with police, are required to investigate and document all complaints of DV.⁷²</p>
<p>Corroboration Necessary to Proceed with Prosecution Without Victim</p>	<p>Pennsylvania -- Proposed Protocol:</p> <p>Where a factual basis exists and there is some corroboration, however slight, charges should be filed. Corroboration may include: Medical records of the victim's injuries; Witnesses who observed the assault or the injuries, including children; Witnesses who heard sounds indicating that an assault was taking place, e.g., screams, furniture being thrown; a 911 tape with statements by the victim, witness or the defendant; Physical evidence, e.g., weapons, broken furniture, torn clothing; Admissions by the defendant; A police report written at the time of the assault; The existence of a timely complaint by the victim.⁷³</p>
<p>Legal Rules of Evidence</p>	
<p>Hearsay Exceptions and Other Motions Offered by Prosecution to Have Evidence and Testimony Admitted</p>	<p>Duluth, Minnesota -- Considerable emphasis and training is focused on providing the prosecutor with the means to use hearsay exceptions to overcome the problems presented by reluctant witnesses.</p> <ul style="list-style-type: none"> • Victims are routinely subpoenaed, reluctant or not, to shield them from the appearance that they are the ones working against the aggressor, and thus to shield victims from coercion. • Present Sense Impression Exception: Statements to police officers, neighbors, friends, family within a few minutes of incident. Prosecutors must coordinate with police and shelters for gathering evidence and testimony. • Excited Utterance: Admits statements following a startling event, where the speaker was under stress because of the event, and statements are the product of the event. • Catch All Exception: Three requirements: statement must be offered as proof of a material fact. Statement must be more probative on the point for which it is offered than any other admissible evidence. The general purpose of the rules and the interests of justice must be best served by the admission. Notice must be given to the adverse party. • Evidence of Other Conduct: Minnesota crafted a statute just for domestic

⁷¹ Florida Code section 741.2901(3)

⁷² 74 Mich. B.J. 932.

⁷³ PCADV Prosecution Protocol at 4.

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	<p>violence on this point:</p> <p>Evidence of similar prior conduct by the accused against the victim of domestic abuse, as defined under section 518B.01, subdivision 2, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion on the issue, or misleading the jury, or by consideration of undue delay, waste of time, or needless presentation of evidence.⁷⁴</p> <ul style="list-style-type: none"> • Evidence of Other Conduct, part II: The above is in addition to the standard FRE type exception admitting other bad acts: <p>Evidence of another crime, wrong, or act is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. . . .⁷⁵</p> <p>Rhode Island -- The prosecution and defense may consider filing motions in limine concerning, for example, the admissibility of defendant's prior conduct, the defendant's criminal record, or the victim's out-of-court statements (assuming that the statements qualify under a hearsay exception).⁷⁶</p> <p>Virginia -- Virginia relies on the common law evidence, rather than the generally more permissive Federal Rules of Evidence model. Therefore, these states have a built in head start, particularly with regard to hearsay exceptions. The usefulness in Virginia of statutes such as the first Evidence of Other Conduct statute, above, should be investigated.</p>
Ease Character Evidence Rules	<p>Proposed -- Within the context of spousal homicide, suspend the propensity rules of evidence. These rules forbid the use of character evidence and past bad actions for the purpose of proving charged misconduct in conformity with bad character or past bad actions.⁷⁷</p> <p>Contra: 1. Prosecutors can already get much past bad acts into evidence through use of existing exceptions: identity, intent, knowledge, preparation, plan, elements of a</p>

⁷⁴ Minn. Stat. § 643.20 (1991).

⁷⁵ Minn. R. Evid. 404(b).

⁷⁶ 20 Nova L. Rev. 117. (Footnotes omitted).

⁷⁷ 29 Loy. L.A. L. Rev. 939 (199x). For exceptions to the propensity rule already allowed under one state's law, see California Evidence Code section 1101(b).

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	criminal offense, motive, opportunity to commit the crime, and the absence of mistake. 2. Such evidence may be overly prejudicial and not probative. ⁷⁸
Ease Character Evidence Rules	Texas -- (a) In all prosecutions for murder or voluntary manslaughter, the state or the defendant shall be permitted to offer testimony as to all relevant facts and circumstances surrounding the killing and the previous relationship existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the offense. ⁷⁹
Ease Self-Defense Evidence Rules for Victims who Kill their Abusers	Texas -- If self-defense justification is raised as a defense to willful homicide, then the defendant is allowed to raise (1) relevant evidence that the defendant had been the victim of acts of family violence committed by the deceased . . . and (2) relevant expert testimony regarding the condition of the mind of the defendant at the time of the offense, including those relevant facts and circumstances relating to family violence that are the basis of the expert's testimony. ⁸⁰
Spousal Privilege Inapplicable in Criminal Proceedings Involving Family Violence	Model Code -- The following evidentiary privileges do not apply in any criminal proceeding in which a spouse or other family or household member is the victim of an alleged crime involving domestic or family violence perpetrated by the other spouse: 1. The privilege of confidential communication between spouses. 2. The testimonial privilege of spouses. ⁸¹
Admissibility of Battered Woman's Syndrome	Virginia -- A. Prior acts of violence by victim--in claim of self-defense, relevant as bearing on reasonable apprehension which defendant may have experience and the likelihood of victim's aggressive behavior as claimed by the victim, <u>Edwards v. Commonwealth</u> , 10 Va. App. 140, 390 S.E.2d 204 (1990). ⁸² California --

⁷⁸ *Id.*⁷⁹ Texas Penal Code section 19.06(a)(1993).⁸⁰ 10 Notre Dame J.L. Ethics & Pub. Pol'y 301, fn 156 (199x). After the Texas v. Weisner case, section was deleted and re-enacted in Article 38.36 of the Texas Code of Criminal Procedure.⁸¹ National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, 14.⁸² Domestic Violence Training for Prosecutors and Allied Professionals, at 2 of section III, Cathleen M. Pritchard, ACA, Virginia Beach, The Battered Woman Syndrome and Self Defense (1994).

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	<p>California Evidence Code § 1107. Battered women’s syndrome; expert testimony in criminal actions; exception; sufficiency of foundation; abuse and domestic violence; applicability to Penal Code</p> <p>(a) In a criminal action, expert testimony is admissible by either the prosecutor or the defense regarding battered women’s syndrome, including the physical, emotional, or mental effects upon the criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.</p> <p>(b) The foundation shall be sufficient for admission of this expert testimony if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness. Expert opinion testimony on battered women’s syndrome shall not be considered new scientific technique whose reliability is unproven. . . .⁸³</p>
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Substantive Law Considerations

Federal DV Law	<p>United States -- DV also can be prosecuted under the Violence Against Women Act of 1994 (VAWA). VAWA makes it a federal crime to cross state lines with the intent to injure a spouse or another intimate party when such action results in bodily injury.⁸⁴</p>
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Show Cause, Bond Hearings and Other Pre-Trial Issues

If There is a Violation of Conditions of Bond or a Protective Order, Judge Should issue a show cause	<p>Normative Statement --</p> <p>If there is reason to believe a violation of a court order has occurred, police should immediately notify the issuing judge or magistrate. The judge or magistrate should issue a show cause hearing in all such cases. “This places the initial burden on the abuser and sends a clear message that the court has an interest in enforcing its own orders.”⁸⁵</p>
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Defendant Shall be Held	<p>Florida --</p> <p>When a defendant is arrested for an act of domestic violence, the defendant</p>
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⁸³ California Evidence Code § 1107 (a), (b).
⁸⁴ 6 Hastings Womens’s L.J. 339, 345 (19xx).
⁸⁵ *Id.* at 359.

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Until There is a Judicial Hearing, Rather than be Released	shall be held in custody until brought before the court for admittance to bail in accordance with chapter 903. In determining bail, the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released. ⁸⁶
Prosecutor Shall Appear at Preliminary Hearing/bond Hearing	<p>Pennsylvania -- Proposed protocol:</p> <p>It is critical that the prosecutor appear at the preliminary hearing. This is the victim's first appearance in the court room and it is important that she be well prepared and supported during the proceeding. By appearing at the preliminary hearing, the prosecutor will have the opportunity to add charges not previously filed, and to obtain a [protective order] for the victim. . . . The prosecutor should make a vigorous bail argument and suggest conditions to be imposed by the court. . . .⁸⁷</p>
Protecting the Victim	
Confidentiality of Victim's Address	<p>Pennsylvania Code § 479.10 as reflected in Proposed Protocol --</p> <p>The prosecutor should zealously protect the confidentiality of the victim's address and telephone number when the victim is hiding from the defendant. Addresses and phone numbers should be blocked out of police reports, and all other discovery materials turned over to the defense. Prosecutors should also remember to tell victims that they do not have to give an address when asked to do so in court, so as to avoid inadvertent disclosure.⁸⁸</p>
Personal Service of Subpoenas	<p>Pennsylvania Proposed Protocol --</p> <p>Any subpoenas going to the victim should be personally served upon her to avoid the possibility of the defendant intercepting them in the mail.⁸⁹</p>
Transportation to Court	<p>Alexandria, Virginia -- Victims who are the victims of abusers on Alexandria's "25 most wanted family abusers" list (Target Domestic Violence Program) are picked up at their homes by the testifying police officers in the case on the morning of the trial. This reduces the number of no show and reluctant witnesses.⁹⁰</p>

⁸⁶ Florida Code section 741.2901(3)

⁸⁷ PCADV Prosecution Protocol at 7.

⁸⁸ *Id.* at 7. PA Code requires that the victim's address not be released to any person other than a law enforcement agency, corrections agency or prosecutor's office without the prior written consent of the victim. PA Code § 479.10.C.

⁸⁹ *Id.*

⁹⁰ Virginia Coscia, Coordinator, Victim/Witness Program of Alexandria, Effective Prosecution Task Group Meeting, Richmond, Virginia, May 10, 1996.

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	<p>Pennsylvania Proposed Protocol -- The prosecutor should provide for safe transportation for the victim to and from court. This could include a police escort, use of separate entrances at the court house, and, if the defendant is being released following a court appearance, a direction to the court officers to hold the defendant for a period of time sufficient to let the victim leave safely. Secure parking should be afforded, as should escort to and from parking facilities.⁹¹</p>
<p>Designated Waiting Areas in Court</p>	<p>Virginia -- Through Victim/Witness programs, various localities have created a victim waiting room apart from the general court waiting areas for defendants. Virginia Beach's Victim/Witness Waiting Room is in the Victim Witness Office. It is designed to be a calming environment, with toys for children, reading materials, and refreshments.</p>
<p>Protective Orders</p>	<p>Virginia -- Currently, some prosecutors interviewed view it as a conflict for them to advise the victim as to their rights to civil remedies such as protective orders.</p>
<p>Child Custody Consideration</p>	<p>Pennsylvania Proposed Protocol -- Prosecutors need to be aware of the unique dangers faced by domestic violence victims in the child custody arena, and advise them accordingly.⁹² Victims often have children in common with their abusers. If there is a visitation order in place, it may expose the victim to repeated encounters with the abuser. Too, the victim may be further abused by threats of harm or abduction of her children. The children may also be abused in this way.⁹³</p>
<p>Additional Victims' Rights</p>	
<p>Notification</p>	<p>PA Bill of Rights for Victims, § 479.3, as reflected in proposed protocol -- The prosecutor should be responsible for notifying the victim in a timely fashion of every development in her case, including, but not limited to the following: nature and type of charges filed, any release from custody, including short term release, outcome of any court appearance at which the victim was not present, including continuances, date, in advance, of any court hearing in which the victim may have an interest including bail hearing, sentencing, [and] parole hearing[s].⁹⁴</p>

⁹¹ PCADV Prosecution Protocol at 7.

⁹² PCADV Prosecution Protocol at 8.

⁹³ *id.*

⁹⁴ *id.*

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Rights of Victims of Family Violence; Duty of Commonwealth's Att'y to Inform Victim of Rights	<p>Model Code proposed for states --</p> <p>1. A victim of domestic and family violence is entitled to all rights granted to victims of crime including but not limited to the right to: (a) Be informed of all hearing dates and continuances. (b) Provide the court with a victim-impact statement, victim-opinion statement, and an assessment of the risk of further harm. (c) Be present at sentencing and address the court. (d) Advise the court of conditions of probation and parole required to ensure the safety of the victim and other family or household members. (e) Restitution for losses sustained as a direct consequence of any criminal conduct. (f) Apply for victims' compensation and to be informed of procedures for applying. (g) Receive notice from the prosecutor in accordance with section [concerning notice of case disposition].</p> <p>2. An attorney prosecuting a crime involving domestic or family violence shall notify the victim of domestic or family violence of the victim's rights set forth in this section.⁹⁵</p> <p>Pennsylvania Code § 479.7 -- The prosecutor's office is required to provide notice to the victim, when requested, of hearings, dispositions and sentences.</p>
Victim Input	<p>Pennsylvania Bill of Rights for Victims, § 479.3, as reflected in the proposed protocol --</p> <p>The prosecutor should actively seek victim input throughout the pendency of the case. In particular, victim impact statements which emphasize the continuing risk of harm to the victim and her family should be utilized at sentencing⁹⁶</p>
Crime Victim Compensation	<p>Pennsylvania Bill of Rights for Victims, § 479.3, as reflected in proposed protocol --</p> <p>The prosecutor should notify the victim of the availability of crime victim compensation and make appropriate referrals for assistance in obtaining it.⁹⁷</p>
<p>Case Dispositions (The Commission's Batterer Disposition Task Group is focusing on this issue).</p>	
Decision NOT to prosecute	<p>Virginia -- Currently, Virginia's prosecution training manual does not advocate prosecution v. non prosecution.</p> <p>Pennsylvania -- Proposed protocol:</p> <p>If, after reviewing and weighing the factors set forth in Section III above [seriousness</p>

⁹⁵ National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, 14.

⁹⁶ *Id.* at 9.

⁹⁷ *Id.*

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	of the injuries and / or threats, use of a weapon {including furniture or other household objects}, defendant's history of violence as reported by the victim, potential lethality of situation, ⁹⁸], the prosecutor elects not to file charges, he or she shall: Keep a record of the case and the reason why charges were not filed, explain clearly to the victim why filing is not appropriate at this time, refer the victim to local battered women's programs and other appropriate social service and legal assistance organizations, inform the victim of options other than filing a criminal complaint, such as filing a petition for protection from abuse. ⁹⁹
Record of Dismissal Required in Court File	Model Code -- When a court dismisses criminal charges or a prosecutor moves to dismiss charges against a defendant accused of a crime involving domestic or family violence, the specific reasons for the dismissal must be recorded in the court file. The prosecutor shall indicate the specific reason why the witness is unavailable and the reasons the case cannot be prosecuted. ¹⁰⁰
Dismissal of Criminal Case Prohibited Because Civil Compromise Reached	Model Code -- A court shall not dismiss a criminal case involving domestic or family violence for the sole reason that a civil compromise or settlement is reached. ¹⁰¹
Duty of Commonwealth's Att'y to Notify Victim of Disposition	Model Code -- 1. A prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving domestic or family violence when the prosecutor has decided to decline prosecution of the crime, to dismiss the criminal charges filed against the defendant, or to enter into a plea agreement. 2. Release of a defendant from custody must not be delayed because of the requirement of subsection 1. ¹⁰² Pennsylvania Code § 479.3, Bill of Rights for Victims: To receive notice of case outcome. ¹⁰³

⁹⁸ The Effective Prosecution Task Group should consider recommending that the Commission on Family Violence Prevention should develop or adopt a family abuse lethality assessment worksheet for use by prosecutors and law enforcement. List enclosed in parens taken from PCADV Prosecution Protocol at 3.

⁹⁹ PCADV Prosecution Protocol, at 5.

¹⁰⁰ National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, 13.

¹⁰¹ *Id.*

¹⁰² National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, 14.

¹⁰³ PA Code §479.3. A. Bill of Rights for Victims

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Sentencing Recommendation	<p>Pennsylvania proposed protocol -- The prosecutor's sentencing recommendation should be commensurate with sentences for other violent crimes. In some cases, it may be argued that sentencing should be in the aggravated range of the sentencing guidelines due to the relationship between the victim and defendant.¹⁰⁴</p> <p>Aurora, Co -- Preferred sentencing disposition: immediate court appearance, 12 month supervised probation, and, for more severe cases, a jail sentence suspended if D attends court supervised treatment program.¹⁰⁵</p>
Typical Sentencing Recommendations for First Offense in other states	<p>Rhode Island -- 1) one-year probation supervised as necessary to domestic violence counseling; 2) counseling pursuant to R.I. Gen. Laws section 12-29-5; 3) a no-contact order; and 4) fines and restitution.¹⁰⁶</p>
Negotiated Pleas	<p>Virginia -- Prosecution manual advocates some plea agreements. However, this section does not consider some of the most recommended dispositions found on this chart, such as deferred.¹⁰⁷ sentencing.</p> <p>Pennsylvania proposed protocol -- When negotiating a plea, the prosecutor should consider the following factors: the victim's wishes as to disposition; the victim's cooperation or lack thereof; the possibility of proceeding without the victim's cooperation; the seriousness of the offense; the defendant's criminal history/history of domestic abuse.¹⁰⁸</p>
Prosecutor Should Discuss Outcome with Victim	<p>Rhode Island -- Prosecutors often discuss sentencing goals with victims, including protective orders, restitution, etc.¹⁰⁹</p>
Deferred Case Disposition	<p>Virginia -- Currently used, but not an option provided for properly according to many judges and an Opinion of the Attorney General.</p>

¹⁰⁴ PCADV Prosecution Protocol at 10.

¹⁰⁵ Jan Mickish, Ph.D., and Kathy Schoen, J.D., Assistant Prosecuting Attorney, Aurora, Co., Domestic Violence: Developing an Effective Policy, The Prosecutor, Vol. 21, No. 3, at 17 (Winter 1988).

¹⁰⁶ 44-Dec. RIBJ 13.

¹⁰⁷ Domestic Violence Training Manual for Prosecutors and Allied Professionals, J. Patrick Graybeal, Addendum to Outline on Domestic Violence, V. Plea Agreements, Section IV, 1, 2 (1984).

¹⁰⁸ PCADV Prosecution Protocol at 10.

¹⁰⁹ 44-Dec. RIBJ 13.

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	<p>Michigan recently clarified its laws regarding deferred sentencing for DV: The consent of the prosecutor as well as the accused is required to defer sentencing. The court is required to contact the State Police to determine whether the accused has been previously convicted of a domestic violence type assault. An adjudication of guilt is to be entered if the accused: commits an assaultive crime during the period of probation or violates an order to have no contact with a named individual. Further, this section has been amended to limit an individual to only one deferred sentence. Previously, the law allowed the accused two opportunities to have a deferred sentence.¹¹⁰</p>
<p>A Nuanced View, Opposing Diversion, and Recommending Deferred Sentencing in Some Cases</p>	<p>Model Code --</p> <ol style="list-style-type: none"> 1. A court shall not approve diversion for a perpetrator of domestic or family violence. The court may defer sentencing of a perpetrator of domestic or family violence if: (a) the perpetrator meets eligibility criteria established pursuant to subsection 2; (b) Consent of the prosecutor is obtained after consultation with the victim, when the victim is available; (c) A hearing is held in which the perpetrator enters a plea or judicial admission to the crime; and (d) the court orders conditions of the deferred sentence that are necessary to protect the victim, prevent future violence, and rehabilitate the perpetrator. 2. A court or other appropriate authority shall establish criteria for determination of: (a) A perpetrator's eligibility for deferred sentencing; (b) A perpetrator's successful completion of the conditions imposed by the court; and (c) Penalties for violation of the conditions imposed by the court. 3. The case against a perpetrator of domestic or family violence may be dismissed if the perpetrator successfully completes all conditions imposed by the court pursuant to subsection 1.¹¹¹ <p>PA proposed protocol --</p> <p>Largely endorses the above standards of the Model Code. Emphasizes that probation should be carefully monitored, preferably weekly. Conditions must be carefully tailored to the victim's needs, and a credible threat of incarceration must exist to protect the victim. Drug and alcohol rehabilitation for the abuser, if appropriate, are also recommended.¹¹²</p>
<p>Conditions of probation for perpetrator</p>	<p>Model Code --</p> <ol style="list-style-type: none"> 1. Before placing a perpetrator who is convicted of a crime involving domestic or family violence on probation, the court shall consider the safety and protection of the

¹¹⁰ MCL 769.4a, as described in 74 Mich. B.J. 932.

¹¹¹ National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, 16.

¹¹² PCADV Prosecution Protocol at 11.

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<p>convicted of crime involving domestic or family violence; required reports by probation department</p>	<p>victim of domestic or family violence and any member of the victim's family or household.</p> <p>2. the court may condition the suspension of sentence or granting of probation to a perpetrator on compliance with one or more orders of the court, including but not limited to: (a) Enjoining the perpetrator from threatening to commit or committing acts of domestic or family violence against the victim or other family or household member. (b) Prohibiting the perpetrator from harassing, annoying, telephoning, contacting or otherwise communicating with the victim, directly or indirectly. (c) requiring the perpetrator to stay away from the residence, school, place of employment, or a specified place frequented regularly by the victim and any designated family or household member. (d) Prohibiting the perpetrator from possessing or consuming alcohol or controlled substances. (e) Prohibiting the perpetrator from using or possessing a firearm or other specified weapon. (f) Directing the perpetrator to surrender any weapons owned or possessed by the perpetrator. (g) Directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment. (h) Directing the perpetrator to pay restitution to the victim. (i) Imposing any other condition necessary to protect the victim of domestic or family violence and any other designated family or household member or to rehabilitate the perpetrator.</p> <p>3. The perpetrator shall pay the costs of any condition of probation, according to ability.</p> <p>4. The court shall establish policies and procedures for responding to reports of nonattendance or noncompliance by a perpetrator with the conditions of probation imposed pursuant to subsection 2.</p> <p>5. The <u>probation department</u> shall immediately report to the court and the victim any assault by the perpetrator, the perpetrator's failure to comply with any condition imposed by the court or probation department, and any threat of harm made by the perpetrator.</p> <p>6. The <u>probation department</u> shall establish policies and procedures: (a) For the exchange of information concerning the perpetrator with the court and victim; and (b) for responding to reports of nonattendance or noncompliance by the perpetrator with conditions imposed pursuant to subsection 2.</p>
<p>Residential Confinement in home of victim prohibited</p>	<p>Model Code -- In cases involving domestic or family violence, a court shall not order residential confinement for a perpetrator in the home of the victim.¹¹³</p>
<p>Restitution</p>	<p>PA proposed protocol --</p>

¹¹³ National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, 15.

National Effective Prosecution Techniques and Policies

Short Title	Proposed Code Section, Policy or Technique
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	Where desired by the victim, the prosecutor should seek restitution for expenses resulting from the crime including shelter costs, medical costs, counseling and replacement of destroyed property, and wages lost due to attendance at hearings. The prosecutor should ask that payments be made prior to court costs via a specific time table. ¹¹⁴
Judges required to use special caution in releasing family abusers	<p>Florida --</p> <p>It is the intent of the Legislature, with respect to domestic violence cases, that at the first appearance the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released, and exercise caution in releasing defendants.¹¹⁵</p> <p>Suggested improvements:</p> <p>state with specificity the type of caution required: whether a domestic violence offender should be treated differently than any other violent offender; or whether a trial court [or magistrate] can deny pretrial releases in domestic violence cases where one is charged with a misdemeanor battery, detention for which is based on a threat of harm.¹¹⁶</p>
Judges required to use special caution in releasing family abusers	<p>Florida --</p> <p>It is the intent of the Legislature, with respect to domestic violence cases, that at the first appearance the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released, and exercise caution in releasing defendants.¹¹⁷</p> <p>Suggested improvements:</p> <p>state with specificity the type of caution required: whether a domestic violence offender should be treated differently than any other violent offender; or whether a trial court [or magistrate] can deny pretrial releases in domestic violence cases where one is charged with a misdemeanor battery, detention for which is based on a threat of harm.¹¹⁸</p>
Judges must be	Normative statement --

¹¹⁴ PCADV Prosecution Protocol at 11.

¹¹⁵ 20 Nova L. Rev. 117, 142 (1995). Quoting Florida Code section 741.2902(1).

¹¹⁶ *Id.* A defendant accused of a family violence misdemeanor was refused pre-trial release, and sued. The court in Swanson v. Allison decided that this denial was illegal because of conflicts between such a policy and other code sections and the Florida state constitution.

¹¹⁷ 20 Nova L. Rev. 117, 142 (1995). Quoting Florida Code section 741.2902(1).

¹¹⁸ *Id.* A defendant accused of a family violence misdemeanor was refused pre-trial release, and sued. The court in Swanson v. Allison decided that this denial was illegal because of conflicts between such a policy and other code sections and the Florida state constitution. (The problems presented by Swanson v. Allison must be worked through if denial of pre-trial release are ever to be overcome in Virginia))

Short Title	Proposed Code Section, Policy or Technique
committed to enforcement	For criminal sanctions to work, the prosecutor and judge . . . must commit themselves to enforcement. It does no good for the prosecutor to aggressively pursue enforcement if the judge will acquit or provide exceptionally lenient sentences. ¹¹⁹
Penalty Options	<p>Michigan -- Rather than treating a family assault and battery, the 1994 amendments to the Michigan Penal Code provide the option of a slightly greater penalty for family abuse. "A 'normal' assault is punishable by not more than 90 days or a fine of not more than \$500 or both."¹²⁰ A DV assault is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of no more than \$500 or both.¹²¹ A third or subsequent DV conviction is a felony, punishable by not more than two years in jail or a fine of not more than \$2,500.¹²²</p> <p>Michigan also provides steeper penalties for a first DV aggravated assault: it is punishable by not more than one year in jail or a fine of \$1,000 or both. A second aggravated DV assault jumps immediately to a felony, as do subsequent DV aggravated assaults, punishable by imprisonment for not more than two years or a fine of 2,500 or both.¹²³</p>
Provision for Child Support, Visitation, etc.	<p>Michigan -- allows for the provision of child support, visitation, etc., at the time the case is heard.¹²⁴</p> <p>Proposal -- The judge should take such needs of the family into consideration when sentencing the abuser, but should not undermine the impact of the sanctions imposed.¹²⁵</p>
Counseling	<p>Normative Statement --</p> <p>Because abusive behavior is a choice of the abuser and not a "family dynamic," couples counseling and mediation should never be urged or mandated in any case where there has been domestic violence. Both have been shown to greatly increase the violence and victimization [no source footnote for this last statement].¹²⁶</p>
Batterer Treatment and	Illinois -- The Domestic Violence Advisory Committee recently completed a draft proposal for an Ill. protocol for a batterer's program. DuPage County, Ill. has

¹¹⁹ 6 Hastings Women's L.J. at 358.

¹²⁰ 74 Mich. B.J. 932.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.* at 932.

¹²⁴ *Id.*

¹²⁵ 6 Hastings Women's L.J. 345.

¹²⁶ 10-FALL Crim. Just. 2.

National Effective Prosecution Techniques and Policies

Short Title	Proposed Code Section, Policy or Technique
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Counseling	developed a three tier evaluation and treatment program. Monitoring, accountability, and evaluation are key components. ¹²⁷
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¹²⁷ 26 Loy. U. Chi. L.J. 678.

**APPENDIX M. VIRGINIA HEALTH CARE SYSTEMS RESPONSE TO
FAMILY VIOLENCE**

Included in this chart are the following categories of providers:

Immediate Care Facilities
University Health Centers
Health Districts
Dental Association
Hospitals (12 surveyed)
Employee Assistance Programs
Home Health Nursing
Health Maintenance Organizations
Community Service Boards
Rural Primary Care Physicians

University Health Centers	
Prevalence	Public schools report that cases of domestic violence are infrequent. May see several rape cases during the school year but most occur after hours and are seen in the ER. All girls schools claim that most of the cases of sexual assault occur off campus. Victims receive more services from the counseling center than from student health.
Protocol	Although some schools had no written protocol, most had a guideline or protocol for cases of sexual assault.
Training (including interviewing and legal issues)	Training ranged from physicians relying on basic medical school education to awareness and in-service training specifically design for family violence issues. Most reported that interviewing skills developed from basic medical school education and were included in the protocol. All girls schools seem to have less standard and structured guidelines. Legal issues involving sexual assault were included in protocols and Student Health Center checklists. Most schools involve campus police and have college discipline capabilities. Some women's colleges relied on outside community sexual assault centers for assistance.
Identification and referral to services	All schools provided referrals to on-campus counseling. Several had survivor's handbooks for victims of sexual assault. Most make use of outside support services such as the YWCA and other sexual assault crisis services. If long-term counseling is needed, referrals would be made to mental health resources, but not necessarily in the rape crisis centers. Domestic violence cases would be referred to sexual assault centers.
Safety plan	
Literature provided to people served	All schools had brochures, resource literature, or referral services available.

Recommendations:

1. Include domestic violence in orientation and life skills classes.
2. Develop self-training for staff and graduate students.
3. Include vice presidents of student affairs and community college deans of student services in all efforts for education.

Response of Health Care Providers to Family Violence

	Immediate Care Facilities
Prevalence	Very infrequent. (Issue is probably under-identified.) Estimated such cases are less than 1/10 of 1% of the initial patient visits. Probably see more spouse abuse cases than child abuse cases; rape cases referred to the ER
Protocol	No standard written protocol, but physicians are required to follow all legal requirements for victims of violence.
Training (including interviewing and legal issues)	As family practice and emergency medicine providers, physicians are trained in identification and appropriate intervention in family violence cases; interviewing and response skills are acquired in basic medical school training. However there is no special skill training in this area; most physicians are experienced with legal documentation and testifying and will use photographs if the victim declares that she/he is victim of family violence only with the patients permission. Specific in-service training on family violence is not offered, however physicians are required to take continuing courses to maintain CME requirements.
Identification and referral to services	Although the immediate care facilities do not have counseling within their practice, they are able to identify the necessary services and make referrals at the discretion of the physician or staff member.
Safety plan	Information not available as to the extent of a safety plan
Literature provided to people served	Responses vary; some facilities provide brochures on available resources while others had no available literature and were not allowed to hang materials of any type on the walls (i.e. public service announcements or posters)

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Recommendations:

- Develop:
1. model protocol
 2. victim information card for waiting room
 3. standardized self education for CMEs and CEUs.

	Health Districts
Prevalence	14 out of 35 health districts were interviewed
Protocol	12 of the 14 districts had no formal policy, or did not mention a formal policy or protocol for responding to family violence.
Training (including interviewing and legal issues)	8 of the 14 districts receive in-service training on family violence. 9 of the 14 districts include family violence screening questions in their family planning and maternity questionnaires; one district included information on a self history intake sheet. 5 of the 14 districts are familiar with reporting of family violence, mostly in the area of child abuse. 6 of the 14 districts testify in court.
Identification and referral to services	6 of the 14 districts are involved with some type of domestic violence task group, child abuse task force, shelters, and prevention programs. 1 district reported being involved with a physician who performed medical exams and collected evidence in assault cases.
Safety plan	1 district reported having a detailed care plan.
Literature provided to people served	1 district reported having brochures available

Recommendations:

1. Develop template for orientation of new employees by discipline, e.g., environmental health, nursing, clerical, that includes information on violence.
2. Promote ongoing education among Virginia Department of Health (VDH) employees. Require periodic updates.
3. Develop a resource list for health districts of available educational materials.
4. Propose a CME/CEU program tailored for health department employees.
5. Sponsor satellite downlink course on DV.
6. Provide current information, including statistics.
7. Train staff who testify -- or may testify -- in court.
8. Train staff in proper documentation (written, photographs, etc.).
9. Encourage health districts with strong services to publicize their activities through VDH mechanisms, e.g. statewide publications.
10. Publicize grant opportunities.
11. Share pertinent resource materials and encourage collaboration among agencies.
12. Include a history-of-family-violence section in all appropriate state-developed medical forms.
13. Develop a resource booklet or list that staff can distribute to the public.

14. Develop a resource book by region and state for staff. Would include information on rape response services, women's shelters, food banks, free clothing, job training, etc.
15. Encourage VDH to develop a statewide policy on DV, or a model policy to aid health districts in developing their own. Policy would address: role of local health district; VDH, district, and employees' responsibilities; situations in which VDH employees are involved in DV (both as victim and perpetrator); and district's role as patient advocate.
16. Distribute information on the current law regarding DV.
17. Request that Attorney General's Office (Carol Nance) communicate in writing and in person with the health districts concerning DV.
18. Establish and distribute a sensible, uniform response to requests for records concerning family violence.
16. Seek guidance from the Health Commissioner, Dr. Gordon, in determining ways the Commissioner can provide leadership in addressing DV.
17. Encourage Health Directors to direct more attention to DV.
18. Obtain a grant for VDH (or help them to obtain one) to assist them in the efforts listed above.

	Dental Association
Prevalence	Only 6 states currently track the number of dentists that make reports of child abuse and neglect. Of these 6 states 637 reports out of 201,944 total reports came from dentists (0.32%).
Protocol	Office protocol for identifying and reporting suspected child abuse and neglect.
Training (including interviewing and legal issues)	protocol identifies steps in reporting suspected child abuse and neglect including documentation, witnessing examinations, and reporting to CPS. Protocol defines types of child abuse and neglect focusing on physical and behavioral indicators. Only 18 states have any protocol for training mandated reporters of child abuse and neglect (Mouden, 1996)
Identification and referral to services	Prevent Abuse and Neglect through Dental Awareness (P.A.N.D.A) is placed in 26 states and incorporates the resources of dentistry, dental hygiene, dental assisting, education, public health, dental insurers, and social services.
Safety plan	
Literature provided to people served	

Mouden, L. D. (1996). Dentistry's's role in preventing family violence: Going beyond child abuse and neglect. *Journal of the Michigan Dental Association*.

Recommendations:

1. Develop model protocol.
2. Develop information packet – similar to one for urgent care providers – that dentists could give to a victim.
3. When developing physician training, include input from dentists about head and neck trauma.
4. Educate dentists on legal issues.
5. Mandate referral and reporting.

Hospitals (12 hospitals surveyed)	
Prevalence	Unknown; not tracked. Believe DV is increasing. "We don't handle; send to our sister hospitals."
Protocol	If they exist, they-vary widely. Some provide procedures for referrals to Child and Adult Protective Services, while others provide for child and elder, but not adult (spouse?). One mandates that employees report. St. Mary's Hospital implemented a policy in 1987 that provides guidelines for: assessment and identification of abuse and neglect; requirements for mandatory reporting to Social Services; evidence collection during medical examinations; questions to ask when abuse or neglect is suspected; legal documentation; and reporting
Training (including interviewing skills and legal issues)	Varies widely: through social services; through employee assistance programs; mandated for all employees; for community and in-house; one 1-day seminar for survivors.
Identification and referral to services	Most hospitals have some family violence referral or services. Include: flagging a chart with "reason to suspect"; making follow-up calls, offering support groups for victims and batterers (presumably separate); ensuring victim has safe place to go; providing Women's Resource Center phone number; providing Sexual Assault Nurse Examiner (SANE) assistance. One hospital stated there was no formal program and that patient must request information.
Safety plan	
Literature provided to people served	Level of available literature ranges from "upon request" to "available" to "extensive".

Recommendations:

	Health Maintenance Organizations
Prevalence	Do not know how readily available this information is.
Protocol	No standard protocol, but all insurance companies have a program connected to women's health management. It is a "value added" program related to women's health issues and chronic diseases, but not a prevention program.
Training (including interviewing skills and legal issues)	They contract with another vendor to provide this. Trigon has telephonic care as a national resource.
Identification and referral to services	In phone-based contact, HMO will assess caller for potential or actual harm or injury and refer.
Safety plan	Tend to be information and referral programs. They will do follow-up phone calls.
Literature available to people served	

Important note: In conversation with Lissa Smith of Trigon, she stated that Trigon is a "world of claims data." They are not convinced that dealing in prevention of family violence is a cost-savings approach for the corporation. They invite feedback from the Commission.

Recommendations:

Community Service Boards	
Prevalence	Have numbers of only what is reported. Four years ago the CSBs began providing services to victims, perpetrators and children.
Protocol	CSBs serve mentally ill, mentally retarded, and substance abusers, but their protocols regarding family violence do not typically apply to substance abusers (their vulnerability is of a different nature). Law requires CSBs to report to adult (or child) protective services if they suspect family violence. Licensure department investigates. Their role is to hold the program accountable. Licensure is the tool for enforcement.
Training (including interviewing skills and legal issues)	At orientation employees receive training on client and human rights regulations.
Identification and referral to services	When Protective Services receives a report, they must investigate and consider removal. DSS has authority to remove a person from the home. CSBs do court-ordered intervention, but the actual provider varies with locality.
Safety plan	
Literature available to people served	"Probably yes."

Note: In residential programs, the concern of servers (workers) as perpetrators exists. Prevalence records do not exist, but allegations are investigated within 72 hours of reporting, through Office of Human Rights of DMHMRSAS. (They would cite a residential program that did not identify and refer). [Question: how do they know when someone does not report?] Staff screening includes complete applications, and background (criminal and education) checks. Literature is probably not available in residential programs.

Recommendations:

1. Top priority: Identification and referral, perhaps at crisis intake.

Rural Primary Care Physicians	
Prevalence	See some incidents, but not "high" prevalence. Providers becoming much more able to identify family violence. In the past, patients not ready to acknowledge the violence, and if they did, responses from local DSS and other resources was inadequate, perhaps because of limiting regulations and legal requirements and lack of understanding about the issue.
Protocol	A few of the 41 centers have established protocols. CVA is developing one, but various local responses and resources complicate that development.
Training (including interviewing skills and legal issues)	Provided as requested. No formal on-going training. Centers are often one-provider practices, so leaving the office for training is problematic. They do actively pursue self-study options.
Identification and referral to services	Interviewing skills and legal issues included in 1995 training. Providers have expressed desire for more.
Safety plan	Safety assessments are routinely performed.
Literature available to people served	Usually available regarding local services; need patient education literature, especially for illiterate persons. A video tape with a survivor's story might help victims identify the behavior as unacceptable.

Recommendations:

1. Develop patient education to help patients identify family violence and its consequences.
2. Educate Department of Social Services (DSS) and law enforcement to be more understanding and responsive.
3. Develop model protocols.
4. Develop model health care provider curriculum, especially designed for self study. It should be brief, with bullets, and action-oriented.

