

**REPORT OF THE
VIRGINIA COMMISSION ON**

FAMILY VIOLENCE PREVENTION

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



SENATE DOCUMENT NO. 27

**COMMONWEALTH OF VIRGINIA
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COMMONWEALTH of VIRGINIA

Commission on Family Violence Prevention

Senator Janet D. Howell
Chair

Harriet M. Russell
Executive Director

December 22, 1999

TO: The Honorable James S. Gilmore, III, and Governor of Virginia

and

Members of the Virginia General Assembly

The 1999 General Assembly, through Senate Joint Resolution 396, continued the Virginia Commission on Family Violence Prevention. The Commission was directed to continue its study of family violence in the Commonwealth and present its final report and recommendations to you. Enclosed for your review and consideration is the report prepared in response to this request.

In 1999 the Commission benefited from the assistance of citizens and public servants who served on the Commission, subcommittees and task groups. The Commission received testimony from concerned citizens at public hearings held in conjunction with its meetings. The comments received at these hearings did much to shape our efforts and this report. The Commission continued to receive assistance from all related agencies and gratefully acknowledges their efforts.

Since it began in 1994, the work of the Commission has received support and participation from 48 state agencies and private organizations and involved over 1200 Virginians from across the Commonwealth. The Commission convened 29 different task groups to undertake studies of specific issues and introduced or formally endorsed 23 bills, 10 resolutions and 7 budget actions adopted by the General Assembly. The Commission has demonstrated the impact of the active involvement of citizens in crafting responsive legislation. The Commission wishes to express its gratitude to the citizens and General Assembly for the respect and support provided to these efforts over the years.

Respectfully Submitted,

A handwritten signature in black ink that reads "Janet D. Howell".

Janet D. Howell
Chair

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VIRGINIA COMMISSION ON FAMILY VIOLENCE PREVENTION
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Senator R. Edward Houck
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The Hon. Mark L. Earley, Attorney General
The Hon. Harry L. Carrico, Chief Justice, Supreme Court of Virginia
The Hon. Wilbert Bryant, Secretary of Education
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The Hon. Joseph B. Benedetti, Director, Department of Criminal Justice Services
Mr. Clarence Carter, Commissioner, Department of Social Services
Rev. Gerald O. Glen, Director, Department of Juvenile Justice
Dr. Richard E. Kellogg, Commissioner, Department of Mental Health,
Mental Retardation & Substance Abuse Services
Dr. E. Anne Peterson, Commissioner, Department of Health
Mr. Overton P. Pollard, Director, Public Defender's Commission

MEMBERS BY APPOINTMENT:

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The Hon. Roy B. Willett, Judge, 23rd Circuit, Roanoke County
The Hon. Stephen H. Helvin, Judge, 16th General District, Charlottesville
The Hon. Janice Brice, Judge, Prince William Juvenile & Domestic Relations District Court
The Hon. Joan C. Skeppstrom, Judge, Norfolk Juvenile & Domestic Relations District Court
The Hon. Paul Ebert, Commonwealth's Attorney, Prince William County

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Ms. Betty Wade Coyle, Citizen, Norfolk
Ms. Pat Groot, Citizen, Charlottesville
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The Hon. David A. Melesco, Judge, Citizen, Franklin County Juvenile & Domestic Relations Court
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EXECUTIVE SUMMARY

The Virginia Commission on Family Violence Prevention, pursuant to Senate Joint Resolution (SJR) 396, was directed to study family violence including domestic violence, child abuse, elder abuse, sexual assault and stalking to: (i) develop recommendations related to custody and visitation matters when family violence is present; (ii) develop and provide training to judicial personnel related to family violence; (iii) develop recommendations for a mechanism to assure coordination across state agencies related to training and community services that address, prevent and treat family violence; and (iv) assist state agencies in implementing the 1999 recommendations of the Commission. The Commission was directed to complete its work in time to submit its final report and recommendations to the Governor and 2000 Session of the General Assembly.

The Commission is comprised of 32 members as dictated by SJR 396. The Commission acts on recommendations from the Community Response/Public Awareness, Law Enforcement and Legislative/Judicial subcommittees. The subcommittees are comprised of assigned Commission members and additional citizens representing public and private sector agencies and organizations with expertise in family violence issues.

A detailed discussion of the Commission's work over the past year is contained in the body of this report. The Commission focused its primary attention on determining the roles, functions and tasks of the Commission that should be continued after the 2000 session and developing recommendations to support those efforts.

Family violence continues to be a problem with a significant impact on the Commonwealth and its citizens. The Commission on Family Violence Prevention, at its final meeting on September 24, 1999, supported a transition plan that assures that the key functions, traditionally identified with the Commission, are continued. The Commission recommended that its policy and legislative duties, along with the coordination of collaborative efforts, be sent to the Virginia State Crime Commission since many of the primary legislative efforts of the Commission on Family Violence Prevention have dealt with criminal justice issues. At their meeting on December 8, 1999, the Virginia State Crime Commission approved the Commission on Family Violence Prevention's proposal that a standing subcommittee of the Crime Commission, focused on family violence issues, be established.

The Commission also recognized the continuing impact of family violence on the judicial system and similarly, the impact of the judicial system on family violence. The Commission recommended that a staff position be maintained within the Office of the Executive Secretary of the Supreme Court of Virginia that will support training and technical assistance to the courts related to family violence.

The following are the Commission's specific recommendations:

- I. **CHILD CUSTODY & VISITATION WHEN THERE IS FAMILY VIOLENCE**
The presence of family violence and its impact on children raises significant issues when the custody and visitation of the minor child is before the court. The courts are looking

for alternatives that balance the need for safety for victims of family violence and the need for parents to maintain relationships with their children.

The Office of the Executive Secretary of the Supreme Court of Virginia should:

- ◆ continue to explore methods to ensure that information on the presence of family violence is before the court in custody and visitation matters; and
- ◆ collaborate with the Virginia Department of Social Services and the Virginia Department of Juvenile Justice to review and revise the custody investigation forms to include questions on family violence and the nine factors (Va. Code § 20-124.3) the court is to consider when making custody decisions.

The Family Violence Subcommittee of the Crime Commission should:

- ◆ distribute the suggested formats for custody reports to professional groups; and
- ◆ consider a study of supervised visitation to determine availability, cost, use, qualifications of providers, enforcement of orders, and outcomes of supervised visitation. The Virginia Commission on Youth and the Virginia Department of Child Support Enforcement should be consulted regarding their participation in such a study.

II. TRAINING TO JUDICIAL PERSONNEL

The Office of the Executive Secretary of the Supreme Court of Virginia should continue to provide training and technical assistance to the courts related to family violence issues to include but not be limited to:

- ◆ establishment of an electronic interface between the courts and the Virginia Criminal Information Network for the purposes of transferring information related to Protective Orders;
- ◆ implementation of the Full Faith & Credit provisions of the federal Violence Against Women Act;
- ◆ methods to assure compliance with court orders; and
- ◆ court handling of family violence cases when there are children in the home.

III. COORDINATION OF EFFORTS THAT ADDRESS, PREVENT AND TREAT FAMILY VIOLENCE

The Virginia State Crime Commission should establish a standing subcommittee to provide direction, guidance, coordination and oversight of policies, legislation, funding and services directed at family violence to include but not be limited to:

- ◆ data collection systems designed to track family violence cases through the criminal justice system;
- ◆ establishment of a statewide protective order registry;
- ◆ establishment of a statewide family violence homicide surveillance and local review system;
- ◆ efforts to assure compliance with court orders, including probation, parole and court ordered treatment programs;
- ◆ allocation of state and federal funds directed at family violence; and
- ◆ statewide public awareness efforts.

IV. IMPLEMENTATION OF THE COMMISSION'S 1999 RECOMMENDATIONS

The increase in public awareness, extensive law enforcement training and increased presence of prosecutors in family violence cases have all combined to create a marked increase in demand for social services to support the victims of these crimes.

- ◆ Adequate funding be allocated to assure social services are available and sufficient in all localities to respond to citizens seeking help.

The 1999 report recommended the Commission work with the Department of Juvenile Justice to identify and provide information to localities on the types of early intervention and diversion programs that are appropriate and available for juveniles who are violent with family members. The Commission took no action on this recommendation during 1999 due to limited staff and resources.

- ◆ The Department of Juvenile Justice should be encouraged to continue to identify and provide information to localities on the types of early intervention and diversion programs that are appropriate and available for juveniles who are violent with family members.

In order for the 1999 marital sexual assault legislation (see 1999 Senate Document 17) to have its full impact, intensive public awareness and training efforts need to accompany the legislative changes in these areas.

- ◆ Efforts to provide public awareness and professional training related to marital sexual assault should be continued, and law enforcement and victim service protocols for response to marital sexual assault should be developed.

FINDINGS AND RECOMMENDATIONS

I. COMMUNITY RESPONSE/PROFESSIONAL AWARENESS SUBCOMMITTEE

The Community Response/Professional Awareness Subcommittee, co-chaired by Delegate Clifton "Chip" Woodrum and Judge Roy Willett, is charged with assisting and supporting communities to assure an efficient and coordinated response to family violence, and to support professional training and statewide public awareness directed at family violence. This year the Commission examined efforts to coordinate funding for victim services; reviewed and commented on judicial training efforts; and supported efforts to maintain a statewide public awareness campaign. The findings and recommendations of the Commission are summarized below.

A. FUNDING FOR VICTIM SERVICES

With the enactment in 1996 and implementation in 1997 of the Omnibus Family Violence Prevention legislation, SB 113, the Commonwealth has seen a dramatic increase in the number of family violence cases reaching court. This impact was demonstrated in the data collected by the Commission and reported in its 1999 report, Senate Document 17. The increase in public awareness, extensive law enforcement training and increased presence of prosecutors in these cases have all combined to create a marked increase in demand for social services to support the victims of these crimes. Without such services, the full impact of an assertive law enforcement response to family violence is seriously compromised.

The Commission received extensive testimony at its September 24, 1999 meeting related to the need for funds to support local victim service programs. In 1994 the statewide Family Violence and Sexual Assault Hot Line was handling about 100 calls per month from citizens seeking help and services. In 1999, the Hot Line handled over 3,000 calls per month. It was reported that every domestic violence program in Virginia is now receiving more calls for service than they can handle. Although victim services and shelters are available in more localities today than they were in 1994, the odds of being able to receive services have actually decreased because of the increased number of people seeking help.

Recommendation:

- ◆ Adequate funding be allocated to assure services are available and sufficient in all localities to respond to citizens seeking help.

B. COORDINATION OF VICTIM SERVICE PROGRAMS AT THE STATE LEVEL

The Commission convened a meeting of the grant managers that are responsible for the administration of state and federal grant programs designed to address family violence. Representatives of the statewide victim advocacy groups that provide technical assistance to local direct service programs were invited to participate in the meeting.

As the Commission demonstrated in its 1997 (SD 22) and 1999 (SD 17) reports, family violence funds are allocated to communities through at least eight different grant programs and involve at least five different grant management offices in three agencies crossing two

secretariats. Although each grant has a specific target population and/or program goals, they are all complementary and designed to require coordination at the local level.

In fact, many of the grants require a locality to develop cooperative agreements between key agencies and organizations at the local level. Grant applications may also require that these local agencies meet together on a regular basis to assure ongoing monitoring and coordination at the local level. This means that communities who wish to apply for funding to support their child abuse, domestic violence, sexual assault and victim witness programs often have to develop four or five sets of cooperative agreements with the same agencies but for different state administered grants. They may also have to convene separate meetings of these agencies in order to comply with the specific grant requirements. Further, each grant application is different, often requiring similar information but on different forms or under different categories. Once awarded, communities must report back to the appropriate state agency, usually on a specific form and at a specific time.

While these requirements for coordination and accountability are placed on localities, there is no similar mechanism in place at the state level to assure the grant administering offices coordinate their efforts. Such coordination at the state level would avoid duplication of effort. Additionally, routine and formal communication between state agency offices that administer these funding streams could lead to streamlining application processes, coordinating application dates, developing similar if not standardized forms for applications, progress reports and cooperative agreements. This coordination at the state level would be efficient and responsive to the needs of communities. The Commission felt strongly that this state level coordination is essential and it is imperative that this function be assumed by an agency with the ability to span state agency and secretarial lines of authority.

Recommendation:

- ◆ The Virginia State Crime Commission should establish a standing subcommittee to provide direction, guidance, coordination and oversight of policies, legislation, funding and services directed at family violence to include allocation of state and federal funds directed at family violence.

C. STATEWIDE PUBLIC AWARENESS

In 1995, the Commission convened representatives from statewide victim advocacy organizations along with representatives from the Virginia Department of Health and the Virginia Department of Social Services to participate on a statewide public awareness planning group. The victim advocacy groups include Virginians Against Domestic Violence, Virginians Aligned Against Sexual Assault, Prevent Child Abuse Virginia, and the Virginia Coalition for the Prevention of Elder Abuse. The goal of the Statewide Public Awareness Campaign (SPAC) group was to develop a public awareness kit containing statistics, hotline numbers, posters, fliers and public service announcements on family violence that could be used by communities. Five thousand packets were distributed in 1996 and the printing, based on requests for the kits, increased to 9,000 in 1999. All materials contained in the kit are free from copyright and are prepared in a reproducible format that can be used in a variety of media.

In addition to the standard kit, the SPAC group developed a video in 1998, *Beyond the Numbers: The Reality of Abuse*. It is approximately 17 minutes long and was developed for use as a general overview of family violence that can be used with a broad variety of audiences.

The Family and Children's Trust Fund (FACT) provided the funding to print and mail the kits. In 1998, the Commission recommended that FACT assume leadership for and coordination of this statewide effort. As of 1999, FACT assumed responsibilities as the facilitator for the SPAC planning group. The group met once in 1999 and has not yet developed any firm plans for future statewide public awareness campaigns. The Commission felt that every effort should be made to continue statewide public awareness programs that work in concert with and support other family violence policy and legislative initiatives.

Recommendation:

- ◆ The Virginia State Crime Commission should establish a standing subcommittee to provide direction, guidance, coordination and oversight of policies, legislation, funding and services directed at family violence to include statewide public awareness efforts.

D. JUDICIAL TRAINING

The judiciary is crucial to a community's response to domestic violence. In August 1999, the Commission hosted a one-day training event for Virginia's Juvenile and Domestic Relations District Court Judges. This voluntary training event followed the judges' annual, mandatory, three-day conference in Virginia Beach, Virginia. The morning session (four hours) was devoted to the impact of family violence on children, while the afternoon session (two and a half hours) was devoted to offender compliance. Eighty-two judges attended this training. Each participant received a notebook that contained materials related to these topics including academic papers and articles from professional journals; checklists and other tools; related statutes; and Juvenile and Domestic Relations District Court forms.

The training format for both topic areas was a combination of presentations given by professionals, chosen for their expertise in their field, and small discussion groups. Each discussion group was presented with a relevant, hypothetical case summary and questions for discussion. Facilitators and recorders, recruited from the professional staff of the Office of the Executive Secretary at the Supreme Court of Virginia, were assigned to each group. The recorder documented the concerns, recommendations and significant comments of the participants. The recorders' notes will be collected and compiled into a report, which will be presented to the Virginia Crime Commission's Family Violence Subcommittee.

Impact of Family Violence on Children:

Most efforts to address family violence are directed at the adult women and men who are either the victims or perpetrators of the abuse. In many families, there are children living in the violent home who witness the abuse. These children are sometimes called the "silent victims." Children living in these homes are not only at an increased risk of being physically abused themselves, but also are at risk of experiencing other negative outcomes including but

not limited to poor physical and emotional health, substance abuse, low academic achievement and aggressive behavior.

Juvenile and Domestic Relations District Court Judges are frequently in contact with children who experience family violence in their homes. It is essential that judges are knowledgeable about family violence and their role in providing for the safety and well being of children from violent homes. In 1998, upon the recommendation of the Commission's Impact of Family Violence on Children Task Group, the Commission resolved to "develop and implement, with the Education Department of the Supreme Court of Virginia, training for Juvenile and Domestic Relations District Court judges and Circuit Court judges on the effects of domestic violence on children." This training was designed for Juvenile and Domestic Relations District Court judges, and a similar, voluntary, one-day training event is planned for Circuit Court judges in October 2000.

Billie Lee Dunford-Jackson, Esq., the Assistant Director in charge of Law and Policy for the Family Violence Department of the National Council of Juvenile and Family Court Judges, gave a presentation on how children are affected when family violence is present in the home. Ms. Dunford-Jackson examined the psychological and physical effects that witnessing of domestic violence can have on children. She provided information on how the courts can minimize these effects and consider the safety and welfare of the children when entering court orders.

Susan Keilitz, Esq. is a Senior Research Associate at the National Center for State Courts. Ms. Keilitz provided an overview of her research related to court handling of cases involving domestic violence and child custody. She addressed the use of screening practices that identify cases involving domestic violence; the use of mediation when domestic violence is present; the use of custody evaluations and guardians ad litem to gather information for use in a custody or visitation matter; and the importance of well-crafted orders in these cases.

Lelia Baum Hopper, Esq. is the Director of the Court Improvement Program – Foster Care and Adoption for the Office of the Executive Secretary at the Supreme Court of Virginia. Ms. Hopper reviewed the current statutes and recent legislative changes related to family violence including protective orders, use of guardians ad litem and definitional issues. Forms, reflecting 1999 changes, used by the Juvenile and Domestic Relations District Courts were also reviewed and included in the materials.

Offender Compliance:

When a perpetrator of family abuse is before the court, the court plays a key role in sending a message to the offender that he/she is responsible for his/her violent behavior, and that society refuses to tolerate such behavior. To further reinforce this and ensure accountability, the court may sentence the offender to supervision by a local community corrections program and order the offender to participate in a batterer intervention program. It was recognized that judges might be unfamiliar with the services and resulting benefits of these programs. In 1998, upon the recommendation of the Commission's Batterer Intervention Task Group, the Commission resolved to "support and assist the Education Department of the Supreme Court of Virginia with the training of Juvenile and Domestic Relations District Court judges on

batterer intervention programs including their benefits and limitations, what to look for in a batterer intervention program, and the role of probation supervision for this population.”

This portion of the one-day training included presentations from three Virginia professionals who interact daily with family violence offenders or the programs that serve them. The first, Glen Peterson, Director of the Chesterfield-Colonial Heights Community Corrections Department, provided an overview of the services offered by his program and its role in evaluating, referring and supervising adult misdemeanants, including those offenders who are guilty of family abuse.

Janett Forte, Coordinator of the Chesterfield County Domestic Violence Resource Center, provided information on the coordination among community corrections programs, batterer intervention services and victim support services. Ms. Forte provided examples from the efforts of Chesterfield County to illustrate the benefits of this coordination.

Vic Bogo, Co-Chair of the Coalition for the Treatment of Abusive Behaviors (C-TAB), provided an update on their efforts to develop standards for batterer intervention programs. C-TAB is a “statewide organization of service providers dedicated to the provision of treatment for abusive partners and those whose lives are affected by domestic violence.” Mr. Bogo provided the judges with general information on C-TAB, including their activities and long-term goals, and a copy of the draft standards. Since batterer intervention programs are one component of a coordinated community response to domestic violence, it is important that judges are aware of the services they provide and have the information they need to identify quality programs. As a result of these standards, judges will have information on what they should look for in a quality program. It is also expected that, in the future, when programs are certified under the standards, judges will be able to rely on the certification as evidence a program meets the standards when making a referral to a batterer intervention program.

Evaluation of the Training:

The judges were asked to evaluate the training and provide their input on the value of the training. Overall, it was received positively with a rating of 4.5 on a 5-point scale. Participants found the small discussion groups to be the most helpful followed by the overview of Virginia statutes and conference notebook materials. The participants indicated that, in future training events, they would like to see the following: (i) Information on how to obtain or establish services for victims and their families; (ii) Information on full faith and credit for protective orders; (iii) Use of small group discussions; and (iv) Similar interactive formats on topics seen on a regular basis in the Juvenile and Domestic Relations District Courts.

Recommendation:

- ◆ The Office of the Executive Secretary of the Supreme Court of Virginia should continue to provide training and technical assistance to the courts related to family violence issues to include but not be limited to methods to assure compliance with court orders and court handling of family violence cases when there are children in the home.

II. LAW ENFORCEMENT SUBCOMMITTEE

The Law Enforcement Subcommittee, co-chaired by Attorney General Mark L. Earley and Senator Kenneth Stolle, is charged with examining the criminal justice response to family violence including methods to improve and support that response. This year the Commission supported the Office of the Executive Secretary of the Supreme Court and the State Police in their efforts to establish an electronic interface to transfer information related to protective orders and coordinated Virginia's participation in the MidAtlantic Regional Conference on Full Faith & Credit for Protective Orders. The Commission also provided guidance to the Office of the Chief Medical Examiner in its development of a statewide domestic violence fatality data collection system and tools to assist local review teams in Virginia. Additionally, the Commission's 1999 report recommended a review of the need for programs to respond to juveniles who are violent with family members. The findings and recommendations of the Commission related to these areas are summarized below.

A. OFFICE OF THE EXECUTIVE SECRETARY OF THE SUPREME COURT / STATE POLICE ELECTRONIC INTERFACE

In 1996 the Commission identified concerns about the timely entry of information related to protective orders into the Virginia Criminal Information Network (VCIN). VCIN is a system that provides statewide law enforcement access to information that improves their response to crime and public safety. Preliminary Protective Orders (PPO) are issued on the basis of a recent episode of violence that places the victim in fear of imminent serious injury, sexual assault or death. A hearing is held within 15 days of the issuance of such an order and if the court finds the petitioner has been abused and is in danger of future abuse, a Protective Order (PO) will be issued. The code of Virginia requires that information related to these orders be entered into VCIN "as soon as practicable after receipt of the order by a local law enforcement agency." The Commission received anecdotal reports that information related to these orders often was never entered into VCIN while the order was in effect.

In 1997 the Commission undertook a detailed study of the status of entry of protective orders into VCIN. Court records related to orders issued were cross-referenced against VCIN entries for the period of February - April 1997. Sixty-seven of the 127 jurisdictions (53%) showed no court record of a protective order issued during this period. Of those 67 jurisdictions, 31 (46%) had information in VCIN about protective orders. Thirty-six (54%) showed no court record for issuance of orders and no entries into VCIN. Of the remaining 60 jurisdictions, 23 (38%) demonstrated that all orders issued during that period were entered into VCIN. Of the jurisdiction that demonstrated that court records of orders were not entered into VCIN, the range of orders missing was from 5% to 100% with 6 jurisdictions (10%) showing none of the court orders were entered into VCIN.

This study highlighted two areas of concern. The first concern related to questions about whether all courts were keeping records of the protective orders that were issued. As a result of this concern, the management information system used by local courts was modified to include a mandatory field related to the issuance of protective orders. All Juvenile and Domestic Relations District Court clerks were subsequently provided training on the implementation of this field. The second concern was the validation of the anecdotal reports of orders never being entered into VCIN. The study showed that 62% of jurisdictions with

verified orders issued by the court were not able to enter into VCIN the information on all these orders.

By virtue of the basis of protective orders, the petitioner has been harmed and is in fear of immediate danger from an identified individual. In keeping with the major responsibility of law enforcement to protect the citizens of the Commonwealth and the purpose of protective orders, it is essential that every effort be made to maximize the potential of these orders. Certain violations of these orders require an arrest and criminal charges because of the historic risk posed by family violence perpetrators who may be bent on revenge or continued abuse. These arrest provisions exist to provide law enforcement officers with the ability to respond immediately to a violation of an order and perhaps avert a serious crime. If information concerning these orders could be entered promptly into VCIN, it would be available to officers on the street and enhance their ability to respond decisively and rapidly to violations of the orders.

Chapter 924 of the 1997 Virginia Acts of Assembly, Item 21(g) requested the Executive Secretary of the Supreme Court and the Superintendent of the State Police to "...consider the steps necessary to facilitate the entry of protective orders into the Virginia Criminal Information Network to ensure the information so provided is available to law enforcement agencies on a timely basis. The Executive Secretary and Superintendent shall jointly report their findings to the Commission on Family Violence Prevention and to the 1998 session of the General Assembly." This report was completed and contained recommendations to develop a method to electronically transfer data from the courts to VCIN. This has the potential of making protective order information available to law enforcement at the time the parties leave the courthouse and would assure that information related to all orders issued was entered into VCIN. The report provided a break down of costs associated with establishing such a system. The Commission proposed a budget amendment in 1998 that was adopted and enacted to cover these costs.

The involved agencies have both been faced with responsibilities to adapt their data system in anticipation of the century date change. As a result, little action has occurred in 1999 related to this project. Nonetheless, both the Superintendent and Executive Secretary signed a Memorandum of Understanding in June 1999 in support of a Grant to Encourage Arrest Policies to the Commission indicating their commitment to "...enhance the Virginia Criminal Information Network (VCIN) to function as an effective protective order registry...". A copy of this memorandum is included in the Appendices.

This project provides an opportunity to improve law enforcement ability to fulfill its responsibility to assure the protection and safety of citizens. Failure to take action could place the Commonwealth in a difficult position of having identified a problem and a solution to that problem, but neglecting to act.

Recommendation:

- ◆ The Virginia State Crime Commission should establish a standing subcommittee to provide direction, guidance, coordination and oversight of policies, legislation, funding

and services directed at family violence to include establishment of a statewide protective order registry.

B. MID ATLANTIC CONFERENCE ON FULL FAITH & CREDIT FOR PROTECTIVE ORDERS

With the passage of the federal Violence Against Women Act (VAWA), all states were directed to provide full faith and credit for other states' protective orders designed to assure the safety of victims of domestic violence. Delaware received a grant from the State Justice Institute to convene a conference of the MidAtlantic states and establish an Internet web site designed to coordinate efforts between the states to comply with VAWA. The Commission was asked to coordinate Virginia's participation in the effort. Delaware, Maryland, New Jersey, Pennsylvania, Virginia and the District of Columbia participated in the project.

The MidAtlantic Region Full Faith & Credit Conference was held October 1, 1999. Each participating jurisdiction sent a team of professionals representing law enforcement, prosecutors, public defenders, victim advocates, judicial educators, state court data systems, and law enforcement data systems. A list of the Virginia team members is contained in the Appendices. The conference addressed the following issues:

- The content of the Full Faith & Credit portion of VAWA;
- An overview of the participating jurisdictions' statutes related to protective orders and any provisions related to Full Faith & Credit for foreign orders;
- An overview of participating jurisdictions' methods, policies and forms for protective orders and registration of foreign orders;
- Each jurisdiction's methods of verifying orders including state registries; and
- Each jurisdiction's methods of enforcement of orders.

Representatives of the U.S. Department of Justice and the Full Faith and Credit Project of the Pennsylvania Coalition Against Domestic Violence provided presentations on the national perspective. Each jurisdiction provided a presentation on their statutes and procedures and answered questions from the other jurisdictions. Virginia's overview is contained in the Appendices.

There were small group discussions to identify possible areas for future collaboration in the region. Each jurisdiction identified individuals who would serve on an interstate team to follow up on recommendations that resulted from the conference. Kristi S. Wright, Esq., of the Office of the Executive Secretary of the Supreme Court and Lt. Robert Kemmler of the State Police are Virginia's members of this implementation team.

All of the Virginia team members expressed their commitment to follow up on intra and interstate recommendations to enhance compliance with the VAWA full faith and credit provisions. A copy of a memo that was distributed to the Virginia team members is included in the Appendices. The memo outlines the concerns that arose during the conference and the strategies identified to address the concerns.

Delaware established an Internet web site that supported the conference and contains an overview of each participating jurisdiction's statutes and procedures and links back to those jurisdictions. The web site address is: www.state.de.us/midatlanticffc/

Recommendation:

- ◆ The Office of the Executive Secretary of the Supreme Court of Virginia should continue to provide training and technical assistance to the courts related to family violence issues to include but not be limited to implementation of the Full Faith & Credit provisions of the federal Violence Against Women Act and act as a point of contact for other states related to this issue.

C. FAMILY VIOLENCE FATALITY REVIEW EFFORTS

The Virginia Commission on Family Violence Prevention convened the Fatality Review Task Group in 1998 to examine the concept of domestic violence fatality review teams, determine whether or not such teams would be of benefit to the Commonwealth, and if so recommend a structure for the teams. As a result of the Task Group's work, the Virginia Commission on Family Violence Prevention requested the introduction of legislation in 1999 (HB 2185/SB1035) relating to family violence fatality review teams which was enacted.

Local Fatality Review Teams:

Pursuant to this legislation, the Office of the Chief Medical Examiner (OCME) is to develop a model protocol for the development and implementation of local, family violence fatality review teams. Local, family violence fatality review teams review cases where death has resulted from an act of family violence. This review process, which is case-specific and qualitative in nature, can assist communities in developing more effective early responses to family violence. These changes could eventually lead to the prevention of future fatalities. In addition to the development of the protocol, the OCME shall serve as a clearinghouse of information and provide technical assistance to localities that choose to review family violence fatalities.

During 1999, the Virginia Commission on Family Violence Prevention provided technical assistance and support to the OCME in the development of a family violence fatality review protocol. The OCME convened an Advisory Group to develop a model protocol for the development and implementation of local, family violence fatality review teams. A staff person from the Virginia Commission on Family Violence Prevention participates on the Advisory Group. An Advisory Group membership list and the Group's work plan and timeline are included in the Appendices.

The OCME convened the first meeting of this advisory group on October 21, 1999. Harriet Russell, Executive Director of the Virginia Commission on Family Violence Prevention, gave a presentation on the background of the Fatality Review Legislation including a synopsis of the work of the Commission's Fatality Review Task Group. The Advisory Group discussed and clarified its role in the development of a model protocol. The Advisory Group also began to consider the scope, format, availability and general content of the protocol. The Advisory Group convened again on December 13, 1999. A draft outline for a

protocol was presented for discussion. Two additional meetings of the Advisory Group are planned. The expected completion date for the protocol is June 2000.

Statewide Surveillance:

This legislation also directs the OCME to establish a system to collect information on all fatalities in Virginia related to family violence and compile this information into an annual report. Known as surveillance, this type of quantitative, public health reporting methodology counts events and identifies trends and patterns. The annual report will provide aggregate statistical information to characterize and describe family violence in the Commonwealth.

The OCME has completed a literature review and refinement of the data collection instrument. Data collection will begin in January 2000. It is anticipated that data on family violence related homicides during 1999 would be retrospectively collected for inclusion in the report. The first report will be published in June 2000.

A part-time position, the Family Violence Surveillance Coordinator, was established within OCME to carry out the surveillance activities required by the legislation. In addition to these activities, the Coordinator will provide staff assistance to the Advisory Group in its development of the Protocol and provide technical assistance to local, family violence fatality review teams. Recruitment for this position began in September 1999 and continued until December 1999 when a candidate accepted the position. This individual will begin in January 2000.

Recommendation:

- ◆ The Virginia State Crime Commission should establish a standing subcommittee to provide direction, guidance, coordination and oversight of policies, legislation, funding and services directed at family violence to include establishment of a statewide family violence homicide surveillance and local review system.

D. JUVENILES WHO ARE AGGRESSIVE TOWARD FAMILY MEMBERS

The Family Violence Prevention Bill (SB113), enacted in the 1996 session of the General Assembly and implemented in July 1997, set out a number of directives related to the handling of assault and battery against family or household member cases. The Commission began hearing from localities and collecting data from Chesterfield County that indicated that about 10% of these cases involved juveniles who were aggressive toward other family members, either adults in the household or siblings. The Commission undertook a detailed study of this issue in 1998 and recommended legislative changes to clarify handling of these cases. The legislation, SB 1069, was enacted during the 1999 session of the General Assembly.

During its 1998 study, the Subcommittee examined the complexities of dealing with children who are violent in their homes. Most communities seek alternatives to a criminal justice response for these children. The Subcommittee determined that although some communities had developed programs to work with these children, many have not. Reports from Court Service Unit professionals and judges indicate their desire and need for alternatives to the standard array of juvenile justice sanctions. The Subcommittee also heard from professionals

and attorneys who felt that children who are violent in their homes often come from violent homes. They come from homes where they have been the victims of violence in the past or they have witnessed violence between family members. These cases demand a broad array of services including mental health services directed at the children and their families.

The Subcommittee identified some promising approaches including:

- Pretrial diversion for juveniles charged with a first assault and battery offense to include an educational session about the juvenile justice system, discussion about anger management and dispute resolution;
- Coordinated response to family violence cases including evaluation of children in the home when there is violence between the adults and programs for those children;
- Cooperation among the Commonwealth's attorneys, law enforcement, social services, mental health, and the courts;
- Evaluation and services for children who have been the victims of abuse; and
- Classes and programs for adults to assist them in behavior management and discipline for their children.

The Department of Juvenile Justice administers a planning process and grant allocation program to communities to deal with juvenile justice matters. This process provides funds to localities to establish some of the programs identified above. The Subcommittee recommended that the Commission work with the Department of Juvenile Justice to identify and provide information to localities on the types of early intervention and diversion programs that are appropriate and available for juveniles who are violent with family members. The Commission took no action on this recommendation during 1999 due to limited staff and resources.

Recommendation:

- ◆ The Department of Juvenile Justice should be encouraged to continue to identify and provide information to localities on the types of early intervention and diversion programs that are appropriate and available for juveniles who are violent with family members.

III. LEGISLATIVE / JUDICIAL SUBCOMMITTEE

The Legislative/Judicial Subcommittee of the Commission, chaired by Delegate Linda T. "Toddy" Puller, provides guidance to the Commission on legislative drafting, tracking of bills affecting family violence, analysis of the budget as it affects family violence programs, and the development of task groups to facilitate discussion of legislative proposals. During 1999 the Commission completed the study begun by the subcommittee dealing with the impact of violence in the home on children. The emphasis of the work in 1999 was on how such violence affects custody and visitation matters. The Commission also monitored 1999 recommendations made related to marital sexual assault. The findings and recommendations of the Commission related to these areas are summarized below.

A. CUSTODY & VISITATION WHEN THERE IS FAMILY VIOLENCE PRESENT

This Task Group, under the direction of Delegate Linda "Toddy" Puller, was organized in 1996. The Group first examined the law enforcement and social services responses to families where violence and children are present in the home. The recommendations related to this effort can be found in Senate Document No.22. In 1997, the Group turned their attention toward the court system's response to these families when they come to the attention of the court because of child custody matters. In 1998, the Task Group continued to examine the court system's response to these cases. In order to obtain a clearer, more detailed picture, the Task Group, in conjunction with the University of Virginia, undertook an in-depth study of child custody and visitation cases in six Juvenile and Domestic Relations District Courts (J&DR). In 1999, the Task Group held two meetings. Topics studied by the Task Group included the following: consideration of the final results of the custody and visitation study, use of supervised visitation, custody evaluation/home studies, development and use of a case tracking or history sheet, and screening tools.

Custody and Visitation Study:

The custody and visitation study began in 1998 and is covered in greater detail in Senate Document 17, the Commission's 1999 Report to the Governor and General Assembly. The final results of the custody and visitation study were complete and available to the Task Group in early 1999. A copy of the full report can be obtained through the Office of the Executive Secretary of the Supreme Court of Virginia. A two-page summary of the study was prepared to assist readers in understanding the results. A copy of this summary is included in the Appendices.

Supervised Visitation:

When there is evidence of violence or harm to the parties' child(ren) by the abusive, noncustodial parent, a court may order that the visitation of the child(ren) be supervised. The Task Group also recognized that supervised visitation may be used when there has been violence between the adults in the home, and the welfare of the child during visits with the noncustodial, abusive parent is of concern. The use of supervised visitation in both circumstances is becoming a fairly common order. However, there is little guidance as to what supervised visitation means, when it should be used and what type of training is needed by those providing the supervision. Courts, with few or no other options, utilize friends or family members of the parties to supervise the visitation. The lack of training and potential for bias in these situations often makes this practice a poor choice. In addition, the point of exchange between the custodial and noncustodial parents can be dangerous since it provides the abusive party with access to the victim. Restaurants and daycare centers are frequently used as exchange locations, providing little or no security to the abused party or other patrons.

The courts are looking for alternatives that balance the need for victim safety and the need for parents to maintain relationships with their children. The Task Group found that there are few formal, supervised visitation programs. Even when they do exist, there is little structure, oversight and regulation of the supervised visitation.

The Access and Visitation Grants program through the Division of Child Support Enforcement is a federal grant program that can be used to support supervised visitation. Julie Cooper, Assistant Director, Division of Child Support Enforcement (DCSE) and Peggy Friedenber, Staff Development/Special Programs Manager, DCSE gave a presentation to the Task Group about the Grant program. While the placement of these grants in DCSE appears unusual, these grants are based on the premise that children need more than monetary support from noncustodial parents. It is also argued that noncustodial parents who are involved with their children are more likely to pay child support. These grants are intended to fund demonstration programs rather than provide long-term support.

Local Departments of Social Services also provide supervision of visitation when court ordered to do so. Their supervision is more common in cases of abuse and neglect where there is concern for the child's safety. However, local departments do not receive additional funding to provide these services, nor are they provided additional staff to supervise the visits.

The Task Group found that there is little guidance on program components and the qualifications of providers. Three different approaches to provide guidance on supervised visitation were discussed. The first was a regulatory effort in which an entity would certify programs and provide oversight. The second option was to codify guidelines for visitation similar to those codified by California. The third option was to develop informational materials for the courts to provide guidance to them on what they should look for when ordering supervised visitation.

In consideration of these options, the Task Group reviewed portions of the report entitled "Supervised Visitation: A Portrait of Programs and Clients" issued by the Center for Policy Research. In addition to this report, the Task Group reviewed supervised visitation program standards from California and the Supervised Visitation Network. The Task Group noted that guidelines could outline different types of services provided and the qualities to look for in a program. This type of information may be useful to the courts and potential grant programs. While the development of standards could provide a higher level of oversight, additional barriers arise. These barriers include funding and staffing for the development and implementation of the standards and certification of the programs.

The Task Group concluded that, due to time and resource constraints, it was lacking the necessary information to make a recommendation for either standards or guidelines. The Group recommended that additional study, by either a state agency or legislative committee, be conducted on supervised visitation. The consensus was that it should be research rather than policy driven. However, such an effort would require substantial funding. Potential agencies that may be appropriate for this study include the Virginia Department of Social Services and the Department of Child Support Enforcement (DCSE) since funding for supervised visitation programs is based in DCSE.

The Task Group recommended that the Commission distribute existing information on supervised visitation to the courts. Information on supervised visitation was included in the materials for the August 1999 training event for Virginia's Juvenile and Domestic Relations

District Court Judges. Examples of this information can be found in the Appendices of this document.

Custody Evaluations:

An outcome of the UVA custody and visitation study was the recognition that there is a broad range in the education, experience and knowledge of the persons conducting home studies and custody evaluations. In addition to the qualifications of the persons conducting the evaluations, the information collected in these reports varies widely.

Brenda Kerr, Adoption Policy Coordinator, with the Virginia Department of Social Services who participated in the development of the policies and forms used for home studies attended the May 1999 Task Group meeting. Ms. Kerr distributed the questionnaire used for custody investigations as well as instructions for the process, proposed procedures for custody investigations, court referral form, home inspection report and financial statement. Prior to the development of the current forms in 1994, no other guidelines or forms existed. Both Boards of the Department of Juvenile Justice (formerly the Department of Youth and Family Services) and the Department of Social Services approved these guidelines and forms. Ms. Kerr noted that no revisions have been made to the guidelines since their approval in 1995.

The purpose of these guidelines and forms is to promote uniformity and professionalism. They also established basic assumptions for conducting these investigations. The process of the investigation includes the completion of questionnaires by both parties, face to face interviews with the parties, interviews with collaterals, observations, records checks and letters of reference. The guidelines for the custody investigations do not direct the worker to inquire about or evaluate the presence of domestic violence. Once the information has been gathered, the worker makes an assessment and submits it in the form of a report to the court. However, there is no common format for the custody reports. Local Departments of Social Services can charge a fee for these services and the amount of the fee will vary from locality to locality. Each local board is authorized to develop a fee schedule that must include a sliding scale.

Training of the workers conducting the investigations was also of interest to the Task Group. The guidelines indicate trainings for investigators should be from a competent and qualified source, although there is no mandate on this training. The Virginia Institute for Social Services Training Activities (VISSTA), that provides training to social services staff, does not provide a course on custody investigations or custody and visitation. Courses provided by VISSTA (with the exception of three required courses for Child Protective Services workers) are voluntary and locally administered. While a training module on custody and visitation could be put on the list of those recommended for development, if developed, this would simply make it available, not mandated. Such a course would also be available to Court Service Unit staff who could access this course for a fee.

The Task Group recommended that the Office of the Executive Secretary of the Supreme Court of Virginia develop and distribute to Circuit and J&DR courts in Virginia suggested formats for custody reports that would include: (i) relevant issues and areas to be covered by a report; (ii) information that should be included in a final report; and (iii) preferred

qualifications of evaluators. Information on custody evaluations and reports was included in the materials for the August 1999 training event for Virginia's Juvenile and Domestic Relations District Court Judges. Examples of this information can be found in the Appendices of this document.

Screening Tools:

The presence of family violence and its impact on children raises significant issues when the custody and visitation of the minor child is before the court. It is crucial that the judge possess information on the presence of family violence and takes this information into consideration when he/she is making a decision. The various methods used by courts to identify family violence in cases originating as custody and visitation cases was considered by the Task Group.

The Task Group considered the use of an initial screening conducted by the Clerk's office or intake workers in the Court Service Unit. If family violence is identified, the information is provided to the judge and/or a referral for services is made. A paper screening tool is used by the Spotsylvania Juvenile and Domestic Relations District Court, the Bedford County Juvenile and Domestic Relations District Court and certified mediators.

However, the Task Group identified barriers to the full implementation of this screening. The Group discussed the staff time and agency resources that would be needed for the administration of the screening form. Also considered were the potential consequences for failing to return a completed form and the evidentiary issues associated with it. The Task Group expressed concern that it is the responsibility of the parties to introduce evidence in a particular matter and that it is this evidence upon which the court makes its decision. Based on this concern, the Task Group discussed the need for pro se litigants to be better informed of the information that is important and necessary to bring to the attention of the court.

Recommendations:

The Office of the Executive Secretary of the Supreme Court of Virginia should:

- ◆ continue to explore methods to ensure that information on the presence of family violence is before the court in custody and visitation matters.
- ◆ collaborate with the Virginia Department of Social Services and the Virginia Department of Juvenile Justice to review and revise the custody investigation forms to include questions on family violence and the nine factors (Va. Code § 20-124.3) the court is to consider when making custody decisions.

The Family Violence Subcommittee of the Crime Commission should:

- ◆ distribute the suggested formats for custody reports to professional groups.
- ◆ consider a study of supervised visitation to determine availability, cost, use, qualifications of providers, enforcement of orders, and outcomes of supervised visitation. The Virginia Commission on Youth and the Virginia Department of Child Support Enforcement should be consulted regarding their participation in such a study.

B. MARITAL SEXUAL ASSAULT

The Commission convened a task group in 1998 to examine Virginia's statutes related to marital sexual assault. The subcommittee recommended legislation, HB 1732, that was enacted by the 1999 General Assembly. In addition to the legislation, the subcommittee felt there was a need for a broad array of public awareness and professional training in order to better address the issue of marital sexual assault. The Commission included recommendations in its 1999 report to support these public awareness and professional training recommendations.

Based on the extensive research of the task group, the subcommittee endorsed the need to: 1) train criminal justice and victim service professionals in the identification of marital rape and other forms of marital sexual assault; 2) raise public awareness of the elements of these crimes and, 3) insure that both professionals and the public are aware of the legal remedies available. In order to have its full impact, intensive public awareness and training efforts need to accompany the legislative changes in these areas. The subcommittee felt that increased public awareness and training of professionals would result in wider utilization of the statutes and services already in place. The subcommittee also felt that protocols should be developed for law enforcement and victim service programs outlining the proper response to victims of marital rape or other forms of marital sexual assault.

During 1999 Virginians Against Domestic Violence (VADV) offered three training seminars related to marital sexual assault. The training was designed with input from a multi-disciplinary focus group comprised of victim service providers, law enforcement professionals, prosecutors and sexual assault nurse examiners. Approximately 25 people attended each training representing law enforcement, victim services, court and health care professionals. VADV has requested funds through a VSTOP grant to offer two additional marital sexual assault training events in 2000.

Virginians Aligned Against Sexual Assault (VASA) revised their brochure on marital sexual assault to reflect the 1999 legislative changes and have widely distributed the brochure. Additionally, VASA dedicated an issue of their newsletter to marital sexual assault, the new legislative changes and promising approaches to working with victims of such assaults.

The Commission considered requesting that the Department of Criminal Justice Services (DCJS) develop a law enforcement training video related to marital sexual assault. Discussion related to this recommendation indicated that DCJS did not have sufficient staff resources to undertake the project at this time.

Recommendation:

- ◆ Efforts to provide public awareness and professional training related to marital sexual assault should be continued, and law enforcement and victim service protocols for response to marital sexual assault should be developed.

HISTORY AND ACCOMPLISHMENTS OF THE VIRGINIA COMMISSION ON FAMILY VIOLENCE PREVENTION

The Commission was established in July 1994 pursuant to House Joint Resolution 279. It built on the work of a state level coordinating council convened in 1993 by Chief Justice Carrico and was supported initially by a grant from the federal Bureau of Justice Assistance to the Office of the Executive Secretary of the Supreme Court of Virginia. In later years, the Commission received funding from the federal Violence Against Women Act Grants to Encourage Arrest Policies and VSTOP programs to support its work. The Commission maintained four standing subcommittees: Public/Professional Awareness; Law Enforcement; Community Response and Legislative/Judicial. The Commission convened twenty-seven different task groups from 1994 to 1999 to study a broad range of issues. The Commission spent its first eighteen months examining Virginia's response to domestic violence and submitted its first report and recommendations to the 1996 session of the General Assembly of Virginia. What follows is an overview of the Commission's work and accomplishments:

TASK GROUPS & PRODUCTS

July 1994 to December 1995 Task Groups & Products:

- **Anti- Stalking Task Group** produced a multidisciplinary curriculum covering legal, law enforcement, mental health and victim safety issues.
- **Community Planning Guide Task Group** produced a guide for communities who were interested in establishing a local coordinated multidisciplinary effort to address family violence.
- **Data Task Group** examined the existing data collection and monitoring systems that relate to family violence issues and recommended further study of the criminal justice data systems especially those used to track protective orders.
- **Protective Orders Task Group** examined the availability, use and impact of civil protective orders in family violence cases. This task group recommended major legislative reforms for family abuse protective orders that were introduced and adopted in the 1996 session of the General Assembly.
- **Violence Education and Awareness for Physicians Task Group** surveyed the three Virginia Medical schools to determine the nature and extent of current curricula related to family violence. The task group convened a meeting of the deans of the three medical schools and encouraged them to expand and enhance curricula related to family violence.
- **Victim Resource Material Task Group** designed and developed a template for a business card size pamphlet related to the legal response and options for victims of family violence.

This template includes the information required by SB 113 to be provided by officers when responding to domestic violence calls. The template was distributed to all law enforcement agencies in Virginia and has twice been updated to reflect legislative changes.

- Law Enforcement Subcommittee studied the **law enforcement response to family violence calls** and recommended broad legislative changes that create a definitive and decisive law enforcement response to family violence calls as well as directives for training and local policy development. These recommendations were included in SB 113.
- Public & Professional Awareness Subcommittee convened a meeting of representatives of the statewide private advocacy groups that deal with domestic violence, sexual assault, child abuse and elder abuse and key state agencies that deal with these issues. This group jointly designed and distributed a statewide public awareness packet that contained materials that local programs, agencies and organizations could reproduce and distribute. This effort evolved into the annual **Statewide Public Awareness Campaign (SPAC)**.

1996 Task Groups & Products:

- **Batterer Intervention Task Group** analyzed national certification trends related to such programs, examined in detail certification programs in use in other states and surveyed the status and availability of such programs in Virginia. The group recommended the development of standards of practice for such services.
- **Data Task Group** examined the current status of entry of information related to protective orders into the Virginia Criminal Information Network (VCIN). The group recommended a directive to the State Police and Supreme Court to determine the cost and requirements to establish an interface between the courts and VCIN to electronically transfer information.
- **Victim Compensation Task Group** examined the response of the Criminal Injury Compensation Fund to victims of family violence and sexual assault. The group determined that there were many areas of concern and that the concerns applied to all crime victims. It recommended that this Commission work with the Crime Commission to develop broad recommendations.
- **Training Task Group** monitored the Department of Criminal Justice Services (DCJS) efforts to develop and implement a model law enforcement policy in response to family violence and training standards. The group provided guidance and monitored training efforts for law enforcement and judicial personnel including one-day mandatory regional training for all magistrates.
- **Effective Prosecution Task Group** recommended that the Commonwealth's Attorneys' Services Council include a chapter related to family violence in their manual and supported efforts to improve court handling of these cases.
- **Health Care Provider Task Group** examined the existing training and referral networks for health care providers when dealing with victims of family violence. The group recommended the development of informational, screening and resource materials for use by

health care providers. A packet of training materials for medical students was distributed to the medical schools.

- **Impact of Family Violence on Children Task Group** studied the impact of violence in the home on children. The group recommended that the model law enforcement policy for family violence be revised to include directives to inquire as to the presence of children, assess them for possible injury and develop referral relationships with local Departments of Social Services (DSS). It also recommended that local DSS provide training to all Child Protective Services (CPS) workers, develop CPS intake and screening tools as well as formal referral procedures when domestic violence is involved.
- **Victim Services Task Group** hosted a forum for community teams interested in establishing a local coordinating council. Teams from 15 communities attended the conference.
- **Statewide Public Awareness Campaign (SPAC)** developed and distributed 5,000 packets.
- Law Enforcement Subcommittee examined the **correlation between drug and alcohol abuse and domestic violence** and determined there was very little reliable information available related to these issues.

1997 Task Groups & Products:

- **Data Task Group** assisted the State Police and the Supreme Court in their study of the feasibility of establishing an electronic interface to transfer information related to protective orders directly into VCIN. This group also identified the need to assure access to criminal record information for magistrates and courts.
- **Business Community Task Group** developed and distributed a packet of information, *Important Information for Virginia Companies: What To Do When Family Violence Comes To Work*, to assist businesses in identifying and responding to family violence at the work place.
- **Elder and Disabled Adult Task Group** examined the circumstances and risks faced by elderly and disabled adults who are the victims of family violence. This group recommended that training be available for professionals dealing with these individuals and provided training materials to the appropriate groups. In addition, the group identified the lack of shelter and abuse services adapted to the needs of these populations and encouraged service providers to make every effort to assure victim services are available and accessible to this population.
- **Victim Services Task Group** developed materials to assist local coordinating councils in undertaking a community assessment and developing a strategic plan. This group also examined Virginia's Temporary Assistance to Needy Families (**TANF**) **policies** to assure they provided protections to families experiencing violence in the home. The group worked with DSS to begin to identify policy and practice revisions that would assure safety to families.

- **Training Task Group** developed and distributed over 1500 copies of the *Family Violence Reference Manual* to court, law enforcement, legal and victim service professionals. The group surveyed the training offered to 20 different criminal justice and legal professional groups and 11 different health and social services professional groups. As a result of the survey, the task group made recommendation for increased training opportunities and offered assistance to professional groups to support training efforts.
- **Batterer Intervention Task Group** began to develop draft practice standards for these clinical programs and debated whether or not a state regulatory mechanism ought to be established to certify such programs.
- **Community Oriented Policing Group** convened teams from 10 jurisdictions that were adopting policies and developing training aimed at a community response to family violence. The group developed and began collecting detailed information on each family violence police report filed in these jurisdictions. The Commission tabulated this data to provide a profile of family violence incidents.
- **Impact of Family Violence on Children** undertook a study of how J&DR courts respond to family violence cases when there are children in the home.
- **Victim Address Confidentiality Task Group** examined national trends and efforts to assure that a victim of family violence could assure that identifying information related to their whereabouts would be kept confidential under certain circumstances. The group recommended that the courts assure that a protective order petitioner's address is kept confidential. The Supreme Court acted on this recommendation and revised its forms.
- **Lethal Weapons Task Group** examined the use of lethal weapons in family violence episodes and found that they are seldom used, but when used often caused serious injury or death. The Office of the Chief Medical Examiner undertook a retrospective study of domestic related homicides in the central region that underscored the high use of firearms in lethal family violence incidents. The group recommended legislation to allow for a warrantless arrest for brandishing a weapon.
- **Statewide Public Awareness Campaign** produced and distributed over 7,000 informational packets.
- **The Role of the Religious Community** recommended the development of material to assist religious leaders in the identification and referral of victims of family violence.
- **School System Task Group** recommended the development and distribution of materials for school administrators and guidance counselors on the identification and referral of children who are living in violent homes.

1998 Task Groups & Products:

- **Victim Services Task Group** convened a two-day forum for local coordinating councils to assist them in developing local strategic plans. The task group also developed and

distributed the *Family Violence Funding Bulletin* that identified sources of funding to support local efforts.

- **Temporary Assistance to Needy Families Task Group** continued to work with DSS to revise and augment policies and procedures in the TANF and Child Support Enforcement areas to assure safety for families experiencing violence at home.
- **Financial Exploitation of the Elderly Task Group** developed and distributed information for service providers and bankers on identifying and reporting possible financial exploitation of elderly and disabled adults. Information developed by this task group was also included in the 1998 SPAC packet.
- **Statewide Public Awareness Campaign** developed and distributed 9,000 packets and developed an 18-minute video *Beyond the Numbers: The Reality of Abuse*. The Family and Children's Trust Fund assumed the coordination of the SPAC effort.
- **Batterer Intervention Task Group** worked with VADV and the Coalition for Treatment of Abusive Behaviors to transfer the responsibility for the development of clinical practice standards and a certification mechanism to these private sector organizations for completion and implementation.
- **Fatality Review Task Group** reviewed national efforts to establish family violence fatality review efforts. The group recommended legislation to establish a statewide aggregate data collection mechanism and technical assistance support to localities.
- **Juveniles as Primary Aggressors Task Group** examined how communities respond to family violence incidents that involve children as the aggressor, either towards adults or other children in the home. The group recommended clarifying the assault & battery of family or household member statute to limit its applicability to juveniles.
- **Impact of Family Violence on Children Task Group** completed its study of the courts' response to cases involving family violence with children in the home and recommended education for appropriate court personnel.
- **Marital Sexual Assault Task Group** examined Virginia's current statutes, statutes of other states and current practice related to marital sexual assault. The group recommended strengthening and broadening current statutes as well as extensive education for law enforcement and legal professionals related to marital sexual assault.

1999 Task Groups & Products:

- **Training Task Group** with input from the Impact of Family Violence on Children and Batterer Intervention Task Groups, designed and provided a one day voluntary training for Juvenile and Domestic Relations District Court judges that was attended by 82 judges.
- **Fatality Review Task Group** worked with the Office of the Chief Medical Examiner to establish an advisory group to assist that Office in the development of a model protocol for

local family violence fatality review efforts and establishment of a statewide data collection system.

- **Impact of Family Violence on Children Task Group** developed recommendations to: I) make a custody/visitation check list available to litigants through all courts, II) request that the Department of Social Services and Department of Juvenile Justice review and revise their Home Study Form to include information related to the presence of family violence in the home; and III) to assist with the development of a model Parent Education curriculum for parties involved in custody/visitation cases.
- **Data Task Group** continued to monitor the progress of the Office of the Executive Secretary of the Supreme Court of Virginia and the State Police in implementing an electronic interface to allow for immediate transfer of protective order information from the courts into the Virginia Criminal Information Network.
- **Midatlantic Conference on Full Faith & Credit for Protective Orders Task Group** was convened to participate with four other states and the District of Columbia in planning a one day conference for representatives of the courts and law enforcement policy agencies from each participating jurisdiction. This group has also established a web site that links each of the jurisdictions together.

LEGISLATION

1996 Legislation:

- **SB 113** The Commission introduced five separate bills in the 1996 session of the General Assembly that were eventually rolled into one omnibus Family Violence Prevention bill:
 - > SB 113 (Sen. Howell) & HB 155 (Del. Puller) containing broad changes to the Protective Order statutes;
 - > SB 112 (Sen. Howell) & HB 153 (Del. Puller) containing broad changes to the law enforcement arrest response to family violence; and
 - > SB 617 (Sen. Howell) requiring all local law enforcement agencies to develop and adopt a policy related to family violence calls.
- **SB 485** (Sen. Howell) allows for the registration of protective orders issued by other states and directs that such orders will be enforced in Virginia as if they were Virginia orders.
- **SJR 69** (Sen. Howell) assures training for all justice system professionals related to the statutory provisions and procedures in response to family violence and stalking cases.
- **SJR 27** (Sen. Howell) continues the Commission; expands its membership to add another J&DR court judge and 3 more victim advocacy/service provider representatives.
- **Budget Amendment to Department of Health** (Del. Puller) provides \$100,000 1st yr., \$75,000 2nd yr. to expand the Virginia Family Violence Hot Line to address sexual assault issues.

- **Budget Amendment to Department of Social Services** (Sen. Howell) provides \$200,000/yr. for services to victims of domestic violence in underserved or unserved areas.
- The Commission formally endorsed budget amendments to:
 - increase funding for Commonwealth's Attorneys availability in J&DR courts which was allocated; and
 - increase funding for sheriffs and local law enforcement efforts that were not allocated.
- **SJR 229** (Del. Dillard) directed the Commission to assure training to magistrates related to family violence issues.

1997 Legislation:

- **HB 2071** (Del. Watts) provides technical clarifications to SB 113.
- **SB 1049** (Sen. Howell) expands the crimes for which a victim can receive assistance from the Criminal Injury Compensation Fund to include certain sexual assault crimes.
- **SJR 266** (Sen. Howell) directs the Crime Commission to work with Commission on Family Violence Prevention and develop recommendations to improve the Criminal Injury Compensation Fund's response to victims of crime.
- **SJR 272 & SJR 278** (Sen. Howell) directs the Commission to develop standards for batterer intervention programs and explore the feasibility of establishing a certification process for such programs.
- **HJR 664** (Del. Puller) directs the Commission to assure training is provided to law enforcement, legal, human service and victim advocacy professionals.
- **HJR 663** (Del. Puller) continues the Commission.
- **Budget Language** (Sen. Howell & Del. Puller) directs the State Police and the Supreme Court to develop a feasibility study for an electronic interface to be used to transfer information related to protective orders.
- **Budget Amendment to the Supreme Court of Virginia** (Sen. Howell & Del. Puller) provides \$30,000/yr to support the Commission on Family Violence Prevention.
- The Commission worked with the city of Alexandria in the development of and formally endorsed :
 - **HB 1886** (Del. Moran) establishes the availability of protective orders for victims of stalking when a warrant has been issued. Such orders are available regardless of the relationship of the parties involved.
 - **HB 150** (Del. Moran) limits the use of accord and satisfaction in cases involving assault & battery of family or household members.

- SB 936 (Sen. Howell) dealt with Criminal Injury Compensation Fund's access to medical records and was included in SJR 266.
- The Commission supported a budget amendment to provide an additional \$600,000/yr. to support Healthy Families Programs which was allocated.
- The Commission supported budget amendments of \$200,000/yr to DSS to support the CPS Multiple Response Project and \$500,000/yr. to DSS to support child abuse prevention efforts that were not allocated.
- The Commission supported:
 - > HB 1873 (Del. Moran) which increases the penalty for stalking from a Class II misdemeanor to a Class I misdemeanor and
 - > SB 778 (Sen. Ticer) which creates a crime of stalking with a deadly weapon as a Class 6 felony neither of which were adopted.
- HB 2908 (Del. Wilkins) establishes a victim address confidentiality program was passed by and the Commission directed to investigate this issue.

1998 Legislation:

- SB 371 (Sen. Howell) HB 621 (Del. Woodrum) establishes a Batterer Intervention Certification and Monitoring Program with an advisory board that would be administered by the Department of Criminal Justice Services; includes batterer intervention programs as a mandatory service for local community corrections programs and adds a victim service provider to the local community corrections program boards. HB 621 was carried over in House Appropriations to determine if a private sector certification mechanism would be more effective than a state level regulatory mechanism.
- **SB 314** (Sen. Schrock) allows for a warrantless arrest when there is probable cause to believe a weapon has been brandished. This bill was incorporated into HB 583.
- **HB 583** (Del. Watts) addresses technical issues related to protective orders.
- **HB 571** (Del. Deeds) amends the Compensation for Victims of Crime Act to establish an Ombudsman to assist victims in filing and perfecting claims; creates a rebuttable presumption that the victim did not contribute to the crime that led to the claim; lengthens the time for filing and perfecting a claim; increases the reimbursement for funerals and moving expenses; and expands the list of crimes for which a victim can request compensation for mental health services.
- The Commission worked with the city of Alexandria in the development of and formally endorsed :
 - > **HB 391** (Del. Moran) makes violation of a stalking Protective Order a misdemeanor; allows for warrantless arrest for a violation, bars the respondent from purchase or transportation of a firearm.
 - > **HB 392** (Del. Moran) moves stalking from a Class II to a Class I misdemeanor.

- The Commission formally endorsed:
 - > **HB 303** (Del. VanLandingham) **SB 205** (Sen. Saslaw) assures that school guidance counselors will be available to all schools. Passed both houses, amended by the Governor, House rejected amendments, sent bill back to the Governor, vetoed by the Governor.
 - > **HB 478** (Del. Diamonstein) **SB 206** (Sen. Woods) assures the continuation of the Family Life Education program. Passed both houses, vetoed by the Governor.
- **SJR 71** (Sen. Howell) continues the Virginia Commission on Family Violence Prevention and directs it to: study the impact of family violence on children; examine the Commonwealth's response to marital sexual assault; encourage data collection at the state and local levels; investigate the development of fatality review teams; examine the Commonwealth's response to juveniles who are assaultive to family or household members; and assure training is provided to appropriate judicial, criminal justice, and health care professionals.
- **Budget Amendment to the Supreme Court of Virginia** (Sen. Howell, Sen. Stolle & Del. Puller) \$125,000 in the first year, \$12,000 in the second year to create an electronic link between the Court Information Management System and the Virginia Criminal Information Network for real-time transfer of protective order information. This would establish a registry of protective orders that would assist in the service and enforcement of such orders.
- **Budget Amendment to the Department of Criminal Justice Services** (Sen. Howell & Del. Woodrum) \$150,000/year to support the creation and maintenance of a Batterer Intervention Certification and Monitoring Program which would develop standards for and oversight of these programs. This budget item was withdrawn pending the work of the House Appropriations and Commission study of private sector initiatives.
- **Budget Amendment to the Department of Education** (Del. Puller) \$60,000/ year to support the summer institute on violence in the schools and requiring that the curriculum be expanded to include issues of family and dating violence. Budget item not included in either proposed budget.

1999 Legislation:

- **SB 1069** (Sen. Stolle) amends 18.2-57.2, 16.1-253.4 and 19.2-81.3 to make clear that officers are not required to seek an Emergency Protective order and magistrates are not required to issue such orders in assault & battery cases involving juveniles.
- **SB 1035** (Sen. Howell) & **HB 2185** (Del. Puller) defines the purpose and scope of domestic violence fatality review teams and enables localities to convene local teams; and directs that the Office of the Chief Medical Examiner of the Commonwealth provide "surveillance" (a form of public health reporting from the medical examiners' files) as a mechanism for collecting domestic violence fatality information, develop model protocols for fatality reviews, and provide technical assistance to local teams.

- **HB 1732** (Del. Watts) amends §18.2-61, 18.2-67.1, 18.2-67.2 (the marital rape, forcible sodomy and object sexual penetration statutes) to eliminate the word “serious” modifying physical injury. And amends §18.2-67.2:1, the marital sexual assault statute, to add “intimidation”.
- The Commission worked with the city of Alexandria in the development of and formally endorsed :
 - > **HB 2034** (Del. Moran) clarifies that Court Service Units should accept all petitions for Protective Orders for review by the judge of the Juvenile and Domestic Relations District Court.
 - > **HB 2033** (Del. Moran) amends the definition of “Family abuse” to include all acts of “violence, force or threat” that result in physical injury or places one in reasonable fear of serious physical injury.
- The Commission formally endorsed:
 - > **SB 848** (Sen. Gartlan) & **HB 1801** (Del McDonnell) expands the definition of “family & household members” to include relatives whether or not they reside in the same household.
- **Budget Amendment to the Department of Health** (Sen. Howell & Del. Puller) provides \$48,000 for the Office of the Chief Medical Examiner to establish a data collection “surveillance” system, develop a model protocol and provide technical assistance to localities to establish family violence fatality review teams.
- **Budget Amendment to the Department of Criminal Justice Services** (Sen. Howell, Sen. Stolle & Del. Woodrum) provides funds to expand supervision services for adult family violence offenders in the Juvenile and Domestic Relations District Courts.
- **SJR 396** (Sen. Howell) directs that the Commission on Family Violence Prevention be continued to assist state agencies in implementing the 1999 recommendations of the Commission. Directs the Commission to complete its work and submit a final report to the 2000 session of the General Assembly.

APPENDIX A

SENATE JOINT RESOLUTION NO. 396
Continuing the Commission on Family Violence Prevention.
Agreed to by the Senate, February 25, 1999
Agreed to by the House of Delegates, February 23, 1999

WHEREAS, in Virginia, every 12 days a child dies from abuse or neglect; every two hours a victim of domestic violence is turned away from a shelter due to lack of space; every 89 minutes an older or disabled adult is abused, neglected or financially exploited; every 51 minutes a child is abused or neglected; every 21 minutes a call is made to the Family Violence and Sexual Assault Hotline; every 11 minutes a victim seeks help from a domestic violence program; and every nine minutes a victim seeks help from a sexual assault crisis center; and

WHEREAS, family violence is a serious and sometimes fatal problem; and

WHEREAS, the Commission on Family Violence Prevention has made great strides in addressing the issues related to family violence through proposed legislation, training a broad array of professionals on family violence issues, coordinating state agencies, improving data systems, and increasing public awareness and technical assistance to communities; and

WHEREAS, there is a need to assure that the work of the Commission is completed in a manner that allows for an orderly transition; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Commission on Family Violence Prevention be continued to (i) develop recommendations related to custody and visitation matters when family violence is present; (ii) develop and provide training to judicial personnel related to family violence; (iii) develop recommendations for a mechanism to assure coordination across state agencies related to training and community services that address, prevent, and treat family violence; and (iv) assist state agencies in implementing the 1999 recommendations of the Commission.

Current members of the Commission shall continue to serve, with any vacancies being filled in the same manner as the original appointment, except that appointments of members of the House of Delegates to fill vacancies shall be in accordance with the principles of Rule 16 of the Rules of the House of Delegates.

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 \$6,000.

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

The Commission shall complete its work in time to submit its final report and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative 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.

SUBCOMMITTEE MEMBERS

COMMUNITY RESPONSE SUBCOMMITTEE

CHAIR: Delegate Clifton A. "Chip" Woodrum, 16th District, Roanoke

- The Hon. John H. Hager, Lieutenant Governor
- The Hon. Wilbert Bryant, Secretary of Education
- Delegate Vivian Watts, 39th District, Fairfax
- Dr. Richard E. Kellogg, Commissioner, Department of Mental Health, Mental Retardation, and Substance Abuse Services
- Dr. E. Anne Peterson, Commissioner, Department of Health
- The Hon. Janice Brice, Judge, J&DR District Court, Prince William County
- Ms. Jean Brown, Citizen, Leesburg
- Mr. Carl Cassell, Magistrate, Springfield
- Mr. Philip A. Broadfoot, Chief, Waynesboro Police Department
- Ms. Mattie C. Burley, Magistrate, Amherst, VA
- Mr. Stanley S. Clarke, Sheriff, Essex County
- Mr. Walt Credle, Hampton Dept. of Social Services
- Ms. Michelle Croisetierre, Fauquier County Sheriff's Office
- Mr. Peter Easter, VA Assoc. of Broadcasters
- The Hon. Dale Harris, Judge, 24th District J&DR Court, Lynchburg
- H. Lane Kneedler, Esq., Hazel & Thomas, P.C.
- Col. George E. Kranda, Hemdon Police Department
- Ms. Valerie L'Herrou, Virginians Aligned Against Sexual Assault
- Ms. Kate McCord, Virginians Against Domestic Violence
- Ms. Beblon Parks, Virginia Education Association
- Brig. Gen. Gail Reals, USMC Retired, Arlington
- Ms. Stacy Ruble, Virginians Aligned Against Sexual Assault
- Ms. Linda Sawyers, Director, School of Social Work, VISSTA
- Ms. Johannah Schuchert, Prevent Child Abuse, Virginia
- Ms. Ginger Stanley, VA Press Association
- The Hon. Diane Strickland, Judge, Roanoke City Circuit Court
- Kristi VanAudenhove, Co-Director, Virginians Against Domestic Violence

LAW ENFORCEMENT SUBCOMMITTEE

CO-CHAIRS: The Hon. Mark L. Earley, Attorney General

Senator Kenneth Stolle, Co-Chair, 8th District, Virginia Beach

- The Hon. Harry Carrico, Chief Justice, Supreme Court of Virginia
- The Hon. Joseph B. Benedetti, Director, Department of Criminal Justice Services
- Mr. Overton P. Pollard, Director, Public Defenders' Commission
- The Hon. Roy B. Willett, Judge, Roanoke County Circuit Court
- The Hon. Stephen Helvin, 16th General District Court
- The Hon. David Melesco, Judge, Citizen, J&DR Court, Franklin County
- The Hon. Paul Ebert, Commonwealth's Attorney, Prince William County
- Ms. Betty Wade Coyle, Citizen, Norfolk
- Ms. Pat Groot, Citizen, Charlottesville

APPENDIX B

- Ms. Laurie Frost Wilson, Citizen, Lorton
Chief Charles Bennett, Lynchburg Police Department
Gary Byler, Esq., Virginia Beach
Mr. Michael Clatterbuck, Magistrate, Verona
Det. Mike Coker, Portsmouth Police Department
Ms. Deb Downing, Department of Criminal Justice Services
Ms. Candace Feathers, Family Violence Services Coordinator, Virginia Beach
Sheriff Terry W. Hawkins, Albemarle County
Ms. Patricia Jackson, Richmond
Ms. Lynda B. Knowles, Glen Allen
Ms. Josephine Phipps, Friends of Norfolk Juvenile Court, SAFE Program
Mr. Robin P. Stanaway, Sheriff, Gloucester County
The Hon. Toby Vick, Commonwealth's Attorney, Henrico County
Ms. Kathy Anderson, Rappahannock Coalition on Domestic Violence
Ms. Marcy Wright, VA Peninsula Council on Domestic Violence

LEGISLATIVE/JUDICIAL SUBCOMMITTEE

CHAIR: Delegate Linda T. "Toddy" Puller, 44th District, Mt. Vernon,
and Commission Co-Chair,

- Senator R. Edward Houck, 17th District, Spotsylvania
 - Delegate Kenneth Melvin, 80th District, Portsmouth
 - The Hon. Johanna Fitzpatrick, Chief Judge, Virginia Court of Appeals
 - Mr. Clarence Carter, Commissioner, Department of Social Services
 - Rev. Gerald O. Glenn, Director, Department of Juvenile Justice
 - The Hon. Donald Lemons, Judge, Virginia Court of Appeals
 - The Hon. Joan Skeppstrom, Judge, Norfolk J&DR Court
 - Ms. Ruth Micklem, Co-Director, Virginians Against Domestic Violence
 - Mr. Steven Jurentkuff, Director, Prevent Child Abuse, Virginia
 - Ms. Barbara Klear, Citizen, Norfolk
- Betty Jo Anthony, Esq., Virginia Women's Attorneys' Association
Ms. Katherine Cross, Virginians Aligned Against Sexual Assault
Lt. Ray Greenwood, VA Beach Police Department
Ms. Susan Keilitz, National Center for State Courts
Ms. Cartie Lominack, Shelter for Help in Emergency, Charlottesville
Ms. Nancy Oglesby, Assistant Commonwealth's Attorney, Chesterfield
Nechama Masliansky, Esq., Virginia Trial Lawyers Association, Virginia Poverty Law Center
Ms. Mandie Patterson, Department of Criminal Justice Services, Victim's Services Section
Ms. Dana Schrad, VA Assoc. of Chiefs of Police
Ms. Iris Tucker, Chief Magistrate, Christiansburg
Mr. E. C. Walton, Sheriff, King & Queen County

TASK GROUP MEMBERS

IMPACT OF FAMILY VIOLENCE ON CHILDREN TASK GROUP

**CHAIR: Delegate Linda T. Puller, 44th District, Mt. Vernon,
Commission Co-Chair, and Legislative/Judicial Subcommittee Chair**

Ms. Robin Barwick, Training and Development Manager, Department of Juvenile Justice
Ms. Emilie Brundage, Committee for Mother & Child Rights, Inc.
Ms. Betty Wade Coyle, Citizen, Norfolk
Mr. Walter Credle, Director, Hampton Department of Social Services
Ms. Edna DeChristopher, Clerk, York J&DR Court
Ms. Rhonda Gardner, Clerk, Bedford J&DR Court
Mr. Keith T. Gostel, Citizen, Richmond
Dr. Joanne Grayson, Department of Psychology, James Madison University
Mr. Edward H. Holmes, Jr., Deputy Director, Norfolk Court Services Unit
Ms. Rita Katzman, Manager, Child Protective Services, Virginia Department of Social Services
Ms. Susan Keilitz, National Center for State Courts
Ms. Charlotte McNulty, Harrisonburg/Rockingham Community Service Board
Nechama Masliansky, Esq., Virginia Poverty Law Center
Karen Minter Matthews, Esq., Law Office of Thomas O. Bondurant, Jr., Richmond
Ms. Ruth Micklem, Co-Director, Virginians Against Domestic Violence
N. Dickon Reppucci, Ph.D., Department of Psychology, University of Virginia
Ms. Geetha Ravindra, Director, Department of Dispute Resolutions,
Office of the Executive Secretary, Supreme Court of Virginia
Ms. Nancy Ross, Executive Director, Virginia Commission on Youth
Ms. Karen Schrader, Associate Director, Prevent Child Abuse, Virginia
Professor Robert Shepherd, T. C. Williams School of Law, University of Richmond
The Hon. Philip Trompeter, Judge, Roanoke County J&DR Court
Ms. Alice Twining, Ed.D., Wellspring, Virginia Beach
Ellen S. Weinman, Esq., Salem

*Memorandum of Understanding
In support of
Grant to Encourage Arrest Policies*

This memorandum of understanding has been developed to meet the requirements for the Commission on Family Violence Prevention's application for continued funding through a Grant to Encourage Arrest Policies (GEAP) administered by the Violence Against Women Grants Office.

The Virginia General Assembly established the Virginia Commission on Family Violence Prevention in 1994 pursuant to House Joint Resolution 279. The General Assembly has continued the Commission through legislative resolution for each succeeding year. Each resolution clearly outlines the membership of the Commission (contained as an attachment) and the issues to be addressed by the Commission. The Commission is required to annually submit a report to the Governor and General Assembly. In addition to the legislatively mandated membership, the General Assembly has directed that "All agencies of the Commonwealth shall provide assistance to the Commission upon request."

The Commission acts on recommendations from three subcommittees: the Community Response/Professional Awareness, Law Enforcement, and Legislative/Judicial Subcommittees. Each of the 32 Commission members participates on one of the subcommittees. Additional citizens make up the membership of the subcommittees. The subcommittee members act on recommendations from task groups. The task groups are comprised of individuals with experience and expertise related to the specific topic assigned to the group. These groups often involve a large number of local law enforcement and victim service providers.

For 1998, through legislative resolution, the Commission was charged by the General Assembly to:

- study the impact of family violence on children;
- examine the Commonwealth's response to marital sexual assault;
- encourage data collection at the state and local levels;
- investigate the development of fatality review teams;
- examine the Commonwealth's response to juveniles who are assaultive to family or household members; and,
- assure training is provided to appropriate judicial, criminal justice, and health care professionals.

In 1999, the General Assembly, through legislative resolution, charged the Commission to:

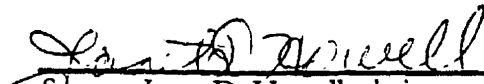
- develop recommendations related to custody and visitation matters when family violence is present;
- develop and provide training to judicial personnel related to family violence;
- develop recommendations for a mechanism to assure coordination across state agencies related to training and community services that address, prevent, and treat family violence; and
- assist state agencies in implementing the 1999 recommendations of the Commission.

APPENDIX D

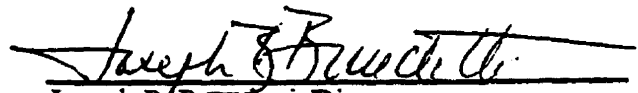
In accordance with the Commission's 1999 Report to the General Assembly, legislative mandate and existing cooperative agreements, the following agencies and organizations have and will continue to fully participate with the Commission to plan, develop and implement the activities outlined in the GEAP application:

- 1) enhance the Virginia Criminal Information Network (VCIN) to function as an effective protective orders registry and assure that criminal records are accessible to local criminal justice personnel;
- 2) provide guidance and technical assistance to localities to establish effective criminal justice case tracking systems for domestic violence cases;
- 3) study domestic violence homicides in Virginia and the role, function and establishment of domestic violence fatality review teams;
- 4) establish an offender accountability mechanism that assures compliance with court orders and provide training to the courts to support this mechanism; and
- 5) develop materials and assure judicial and legal training events address decision making when a case involves child custody or visitation issues with concurrent domestic violence or child abuse issues.


In addition, signature of this memorandum of understanding serves as an endorsement of the GEAP proposal, budget and workplan.




Senator Janet D. Howell, chair
Commission on Family Violence Prevention



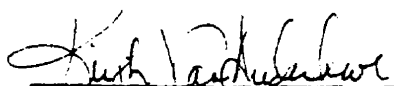
Joseph B. Benedetti, Director
Department of Criminal Justice Services



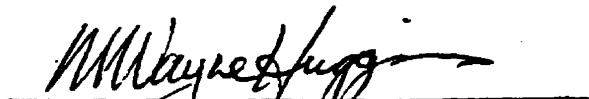
Senator Kenneth Stolle, chair
Crime Commission




Robert N. Baldwin, Executive Secretary
Supreme Court of Virginia



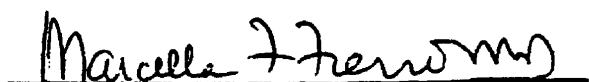
Kristi VanAudenhove, Director, Virginians
Against Domestic Violence



Col. M. Wayne Huggins, Superintendent
State Police



Pat Groot, Director
Virginians Aligned Against Sexual Assault



Dr. Marcella Fierro, Chief medical Examiner
Office of the Chief Medical Examiner

**Mid-Atlantic Regional Conference on Full Faith & Credit
for Protective Orders
Virginia Team**

Janice Conway
Technical Assistance Department
Supreme Court of Virginia

Virginia Duvall, Esq.
Commonwealth's Attorney
Chesterfield County

Melinda Glaubke
Public Defender, Virginia Beach

Sheriff Joe Higgs
Fauquier County Sheriff's Department

Sgt. Pat Kelleher
Detective, Petersburg Police Department

Lt. Robert Kemmler
Virginia State Police

Ruth Micklem
Co-Director, Virginians Against Domestic Violence

Ken Mittendorf, Director
MIS Department
Supreme Court of Virginia

Ron Neely
Technical Assistance Department
Supreme Court of Virginia

The Hon. Frederick G. Rockwell, III
Judge, Chesterfield Juvenile and Domestic Relations District Court

Harriet M. Russell, Executive Director
Virginia Commission on Family Violence Prevention

OVERVIEW OF VIRGINIA'S FAMILY ABUSE PROTECTIVE ORDERS

Relevant Code Sections:

- §16.1-243 Venue
- §16.1-228 Definitions
- §16.1-253.1 Preliminary protective orders in cases of family abuse
- §16.1-253.2 Violation of provisions of protective orders; penalty
- §16.1-253.4 Emergency protective order authorized in cases of family abuse
- §16.1-278.14 Criminal jurisdiction; protective orders; family offenses
- §16.1-279.1 Protective orders in cases of family abuse
- §19.2-81.3 Arrest without a warrant authorized in cases of assault and battery against a family or household members and violations of protective orders; procedures
- §19.2-81.4 Policies and procedures for the Virginia State Police and local law enforcement officials

Related Code Sections:

- §18.2-57.2 Assault and battery against a family or household member
- §18.2-60.3 Stalking; penalty
- §18.2-308.1:4 Purchase or transportation of firearms by person subject to protective orders; penalty
- §19.2-152.8 Emergency protective orders authorized in cases of stalking
- §19.2-152.9 Preliminary protective orders in cases of stalking
- §19.2-152.10 Protective orders in cases of stalking

Court of Jurisdiction

The Juvenile and Domestic Relations District Courts serve as the court of jurisdiction for purposes of obtaining civil protective orders related to family abuse.

Protected Classes

Individuals must fall under the definition of family or household member in order to petition or be named as respondent for a family abuse protective order.

Family or Household Member (Va. Code §16.1-228 as of July 1, 1999) means:

- (i) the person's spouse, whether or not he or she resides in the same home with the person,
- (ii) the person's former spouse, whether or not he or she resides in the same home with the person,
- (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, grandparents and grandchildren regardless of whether such persons reside in the same home with the person,
- (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person,

APPENDIX F

- (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or
- (vi) any individual who cohabits or who within the previous twelve months, cohabited with the person, and any children of either of them residing in the same home with the person.

Definition of Domestic Violence

Family Abuse (Va. Code §16.1-228 as of July 1, 1999) means any act involving violence, force or threat including any forceful detention, which results in physical injury or places one in reasonable apprehension of serious bodily injury and which is committed by a person against such person's family or household member.

Types of Orders

Emergency protective order (EPO) authorized in cases of family abuse (Va. Code §16.1-253.4)

Issuer - Juvenile and Domestic Relations District Court judge, General District Court judge, Circuit Court judge or magistrate may issue a written or oral *ex parte* emergency protective order.

Purpose- to protect the health or safety of any person.

When available - Law-enforcement officer or an allegedly abused person asserts under oath to a judge or magistrate and on that assertion the judge or magistrate finds that:

- a. a warrant for a violation of Va. Code §18.2-57.2 has been issued and there is probable danger of further acts of family abuse against a family or household member by the respondent; or
- b. reasonable grounds exist to believe that the respondent has committed family abuse and there is probable danger of a further such offense against a family or household member by the respondent.

Duration - Expires at 5:00 p.m. on the next business day that the Juvenile and Domestic Relations District Court is in session or 72 hours after issuance, whichever is later.

Emergency Protective Orders would NOT be eligible for full faith and credit.

Preliminary protective orders (PPO) in cases of family abuse (Va. Code §16.1-253.1)

Venue - Where either party has his or her principal residence or where the abuse occurred or where a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family/household member of the petitioner. Va. Code § 16.1-243 (A)(3)

Issuer - Juvenile and Domestic Relations District Court Judge. Va. Code § 16.1-241(M)

Petitioner -Petition must allege that the petitioner is or has been, within a reasonable period of time, subjected to family abuse. petitioner and respondent must therefore be family or household members as defined in Va. Code §16.1-228 and Petitioner must make an allegation of facts sufficient for a finding of family abuse as defined in Va. Code § 16.1-228.

Purpose - To protect the health and safety of the petitioner or any family or household member of the petitioner.

Criteria

APPENDIX F

- a. Order may be entered *ex parte* upon good cause shown. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause.
- b. Petition is to be supported by one of the following for an *ex parte* order to be granted:
 - (1) an affidavit
 - (2) sworn testimony before an intake officer, or
 - (3) sworn testimony before the judge

Procedures

- a. PPO is effective upon personal service on the allegedly abusing person. Service may be made under the direction of the court by sheriffs, their deputies and police officers in counties and cities or by any other suitable person designated by the court. Service by a policeman of a city, county, or town is specifically authorized in Va. Code §15.1-138.
- b. As soon as practicable after receipt of the order by a local law-enforcement agency for service, the agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network (VCIN). A copy of a preliminary protective order shall be served as soon as possible on the allegedly abusing person (respondent) in person as provided in Code section 16.1-264, and upon service the agency making service shall enter the date and time of service into VCIN.
- c. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service.
- d. Upon receipt of the return of service or other proof of service pursuant to Va. Code § 16.1-264, the clerk shall forward forthwith an attested copy of the Preliminary Protective Order to the local police department or sheriff's office which shall, on the date of receipt, enter into VCIN any other information required by the State Police which was not previously entered. If the order is later dissolved or modified, a copy of the order of dissolution or modification shall also be attested by the clerk and forwarded as previously set out.

Duration

- a. Upon service to the respondent, the PPO may be valid for up to fifteen days.
- b. A full hearing shall be held within fifteen days of the issuance of the PPO. The PPO shall specify a date for the full hearing. The result of the full hearing may be the issuance of a Protective Order.

Modification - Either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Preliminary Protective Orders arguably would be eligible for full faith and credit

Protective orders (PO) in cases of family abuse (Va. Code §16.1-279.1).

Venue - Where either party has his or her principal residence or where the abuse occurred or where a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family/household member of the petitioner. Va. Code § 6.1-243 (A)(3)

Issuer - Juvenile and Domestic Relations District Court Judge. Va. Code §16.1-241(M)

APPENDIX F

Petitioner - Petition must allege that the petitioner has been subjected to family abuse. The petitioner and respondent must therefore be family or household members as defined in Va. Code §16.1-228.

Purpose- to protect the health and safety of the petitioner and family or household members of the petitioner.

Criteria- Va. Code §16.1-279.1 states "In cases of family abuse, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner." The petitioner must make an allegation of facts sufficient for a finding of family abuse as defined in Va. Code §16.1-228.

Procedure

- a. Full adversary hearing
- b. Burden of proof is by a preponderance of the evidence. Va. Code §16.1-253.1(D)

Duration - May be issued for a specified period up to two years.

Modification - Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order.

Attorney's Fees - The court may assess costs and attorney's fees against either party regardless of whether a PO has been issued as a result of a full hearing. Va. Code 16.1-279. §1(D)

Protective Orders are eligible for full faith and credit

Possible Relief

Emergency protective order - Upon a finding that the above criteria have been met the judge or magistrate shall issue an *ex parte* EPO imposing one or more of the following conditions on respondent:

- a. Prohibiting acts of family abuse;
- b. Prohibiting such contacts by the respondent with family or household members of the respondent as the Judge or Magistrate deems necessary to protect the safety of such persons; and
- c. Granting the family or household member possession of the premises occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property.

Preliminary protective orders - May include any one or more of the following conditions imposed on the respondent:

- a. Prohibiting acts of family abuse.
- b. Prohibiting of such other contacts between the parties as the court deems appropriate.
- c. Prohibiting such other contacts with the allegedly abused family or household member as the court deems necessary to protect the safety of such persons.
- d. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.
- e. Granting the petitioner temporary possession or use of a motor vehicle jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.
- f. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member, where appropriate.

APPENDIX F

- g. The PPO shall specify a date for the full hearing to be held within fifteen days of the issuance of the PPO.

Protective orders - May include any one or more of the following conditions to be imposed on the respondent:

- a. Prohibiting acts of family abuse;
- b. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health and safety of such persons;
- c. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;
- d. Granting the petitioner temporary possession or use of a motor vehicle jointly owned by the parties to the exclusion of the respondent; however, no such grant of possession or use shall affect title to the vehicle;
- e. Requiring that the respondent provide suitable alternative housing for the petitioner, and, if appropriate, any other family or household member;
- f. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate;
- g. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

Sanctions for Non-Compliance

Civil: Except as otherwise provided in Va. Code §16.1-253.2, a violation of family abuse protective orders shall constitute contempt of court.

Criminal: Pursuant to Va. Code §16.1-253.2 any person who violates a provision of a family abuse protective order which prohibits such person from going or remaining upon land, buildings or premises or from further acts of family abuse, or which prohibits contacts between the respondent and the respondent's family or household member shall be guilty of a Class 1 misdemeanor. Upon conviction, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended.

Identifying a Valid Virginia Protective Order

Family Abuse Protective Orders are issued on Form DC-627

The face of the form includes:

- a. The name of the issuing court,
- b. The names of the parties,
- c. Notation that the order was issued after an adversary hearing finding the need to protect the petitioner,
- d. The length of the order,
- e. All conditions that apply,
- f. The date of issuance and signature of the issuing judge, and
- g. A notation reading "**FULL FAITH AND CREDIT:** This order of protection is entitled to enforcement by the court of another state or of the United States or by a tribal court."

The back of the form contains information verifying personal service of the order and identifying information about the respondent.

Current Full Faith and Credit Status

Va. Code §16.1-279.1(E) Any judgement, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction... for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, ... shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law.

Enforcement - A law enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

Registration of Foreign Orders

A person entitled to protection under a foreign order may file the order in any Juvenile and Domestic Relations District Court by filing with the court an attested or exemplified copy of the order.

Entry of orders into the Virginia Criminal Information Network (VCIN)- Upon such a filing, the Clerk shall forward forthwith an attested copy of the order to the local police department or sheriff's office which shall, on the date of receipt, enter the name of the person subject to the order and other appropriate information required by the Department of the State Police into VCIN.

Central Registry Access

The following agencies or their representatives have access to the Virginia Criminal Information Network (VCIN):

- Police Departments
- Sheriff's Offices
- Local courts
- Virginia State Police (there are 7 divisions)

An order registered in VCIN can be verified by calling the Virginia State Police at 804-674-2000.

Fees for Service of Foreign Orders

There are currently no statutes related to fees for service of foreign family abuse protective orders. Most jurisdictions in Virginia treat these orders as they do any out of state service of process and charge the same fee for service. It is advised that interested parties contact the sheriff's department in the jurisdiction that they wish to effect service.



COMMONWEALTH of VIRGINIA

Commission on Family Violence Prevention

Senator Janet D. Howell
Chair

Harriet M. Russell
Executive Director

October 22, 1999

TO: Janice Conway
Virginia Duvall
Melinda Glaubke
Sheriff Higgs
Det. Sgt. Kelleher
Lt. Kemmler

Ruth Micklem
Dave Savage
Ron Neely
Judge Rockwell
Kristi Wright

FR: Harriet Russell *HMR*

RE: Mid-Atlantic Regional Conference on Full Faith & Credit for Protective Orders

First, I want to thank everyone for taking the time to attend the conference. I was very proud of our team and the broad representation of agencies we included. I wanted to follow up the conference with a brief synopsis of decisions we made at the meeting and outline the work that needs to be done at the state level.

Issue:	Decision:	Responsibility:
<p>1. Fees for service of out of state protective orders - a copy of Va. code §17.1-272 is attached.</p> <p>A.4 excludes protective orders issued pursuant to Chapter 11 - since foreign protective orders are referenced under 16.1-279.1 would this provision apply to them?</p> <p>B. Indicates a \$50 fee is charged for papers returnable out of state - some sheriff's charge this fee for service of foreign protective orders.</p>	<p>1. Clarify that no fees should be charged for service of foreign protective orders.</p>	<p>1. Joe Higgs will present the problem to the Sheriff's Association and ask for their advice/guidance. He will keep in touch with Kristi Wright about this matter.</p>

APPENDIX G

Issue:	Decision:	Responsibility:
<p>2. Stalled progress on the implementation of an electronic interface between the courts and state police for transfer of protective order information.</p>	<p>2. This project has been dormant for about a year to allow for the Y2K system modifications needed by the Supreme Court and State Police. Funds were allocated in the 1999 budget for the hardware adaptations required.</p>	<p>2. Dave Savage and Bob Kemmler agreed to follow up with the project. Harriet Russell agreed to set up a meeting with Capt. Vass and Ken Mittendorff to get their OK for a go ahead with the project.</p>
<p>3. Virginia's statutes do not clearly allow for the seizure of firearms in family abuse cases.</p>	<p>3. Examine the protective order statutes and Assault & battery statutes to determine if there is a place to include such language.</p>	<p>3. Harriet Russell will communicate this concern to the Crime Commission for consideration by the proposed Family Violence Subcommittee.</p>
<p>4. There is a need to assure training for key players related to full faith & credit for foreign protective orders.</p>	<p>4. Each team member will share the conference materials with their respective constituency groups and ensure that the appropriate information be included in upcoming training events</p>	<p>4. All team members</p>
<p>5. Continued participation with the Mid-Atlantic region, including maintenance of the web site and follow up to the conference.</p>	<p>5. Our team determined that all members should be willing to be called upon in the future to follow up the conference when it involves an area in which they have expertise.</p>	<p>5. Kristi Wright was identified/volunteered to act as the main point of contact and Bob Kemmler agreed to be her back up.</p>
<p>6. Delaware's use of a "consent" order which allows the court to enter an order upon the agreement of parties without a finding of abuse.</p>	<p>6. Such orders may eliminate some of the concerns that people seek these orders only to gain leverage in other matters such as custody disputes.</p>	<p>6. ??? <i>Would some team members like to volunteer to research this issue and report to Kristi who can share findings and recommendations with the team?</i></p>

APPENDIX G

Issue:	Decision:	Responsibility
7. There is a need to replicate this type of information sharing with our other neighboring states.	7. The National Center on State Courts appears to be planning similar conferences that will be provided on a regional basis nation wide in the near future.	7. Kristi Wright serves on the advisory group to this national planning committee. Team members should send her any recommendations they have for this training.

I hope I have captured most of the issues and discussion we had in Delaware. Please let me or Kristi know if you have any suggestions, corrections or additions. Kristi and I can be reached at 804-692-0375.

CC: Capt. Vass
 Ken Mittendorff
 Guy Sapp

**OFFICE OF THE CHIEF MEDICAL EXAMINER
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Rappahannock Council on Domestic
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**VIRGINIA DEPARTMENT OF HEALTH
OFFICE OF THE CHIEF MEDICAL EXAMINER**

Implementation of HB 2185 (1999) and SB 1035 (1999)

WORK PLAN AND TIMELINE

Objective 1. Establish position of Family Violence Surveillance Coordinator. Recruit and hire qualified person to carry out the activities described in the legislation.

Outcome: A part-time position was established within the Office of the Chief Medical in August 1999. Recruitment began in September 1999 and continued until December 1999 when a qualified candidate accepted the position. This individual will begin work on January 18, 2000.

Objective 2. Convene an advisory group of key stakeholders to assist in the development of a model protocol for family and intimate violence fatality review.

Outcome: Advisory Group convened on October 21, 1999. Background and history of legislation presented to the group. Initial brainstorming about the model protocol began at this meeting. A draft protocol was prepared and presented for discussion on December 13, 1999. The next draft will be discussed at a meeting in March. Expected completion date of the protocol is June 2000.

Objective 3. Establish surveillance system within the Office of the Chief Medical Examiner to systematically collect and analyze violent deaths that are a result of family and intimate violence. Produce an annual report of aggregate statistical information to characterize and describe family and intimate violence within the Commonwealth.

Outcome: Recent literature has been reviewed and the data collection instrument has been refined. Data collection will not begin until the Surveillance Coordinator assumes her responsibilities in January 2000. The first report on family and intimate homicides will include 1999 data and will be published in June 2000.

OVERVIEW

Family Violence Information in Custody and Visitation Decisions: A Study of Six Virginia Juvenile and Domestic Relations District Courts

Children living in homes where family violence occurs are at increased risk of being physically abused themselves and experiencing other negative outcomes. The Commission on Family Violence Prevention contracted with the Community Research Group, Department of Psychology, University of Virginia who designed a study project to examine the relationship between family violence and custody/visitation matters before the courts.

The study was limited to J&DR courts and conducted in four parts:

- A survey of judges was conducted at the August, 1998 Judicial Conference of Virginia;
- All the adult criminal, protective order and custody/visitation cases seen during 1996 in six courts were examined to determine how often family violence matters and custody/visitation matters involving the same parties were before the court during that same year;
- A subset of cases from each of the six courts were examined in detail; and
- Interviews of the judges and key court personnel were conducted at each of the six courts.

Key Findings

The study attempted to answer three research questions:

1. How often is family violence an issue in custody and visitation cases?

- Approximately 40% of the judges responding to the survey indicated they thought family violence was present in at least 25% of their custody/visitation cases.
- Examination of court records showed 15% of custody/visitation cases had co-occurring adult criminal or protective order cases in the same court during the same year.
- In the 267 custody/visitation cases with co-occurring adult criminal or protective order cases examined, the father was the alleged abuser 70% of the time, the mother 19% of the time and both parents 11% of the time.

2. How do the courts handling custody and visitation cases become aware of family violence issues when they are present in the home?

- Courts use a variety of means to identify when there may be family violence issues present including: testimony by the parties, paper or interview screening for family violence, evaluations for mediation referrals, home studies or custody evaluations and reports from Guardians ad litem.
- Overall 34% of the custody/visitation case records examined contained reference to family violence.
- Examination of the custody/visitation case records when there was a co-occurring family violence matter in the same court found only 40% of these records contained any reference to family violence. In other words, 60% of the custody/visitation case records involving families who also had a concurrent family violence matter before the same court had no indication that the court was aware of the family violence matter.

3. How do the courts use information about family violence in the home when making custody and visitation decisions?

- In the overall sample of cases (N=695) examined, mothers were awarded both legal and residential custody at the highest rate (38% and 49% respectively), fathers were awarded

APPENDIX J

legal custody in 10% and residential in 14% of cases; joint legal custody was awarded in 18% of cases, joint residential in 4% of cases; DSS was awarded legal custody in 13% and residential in 11% of cases; other individuals were awarded legal custody in 20% and residential custody in 22% of cases.

- When there is reference to family abuse in the case, it is more likely to be a reference to child abuse than violence between the adults.
- When there is reference to child abuse, mothers are twice as likely as fathers to be the alleged abuser.
- The rate at which mothers, when they are the alleged abusers, are awarded custody is reduced by 13% for legal and 29% for residential custody. The rate at which fathers, when they are the alleged abuser, are awarded legal custody is increased slightly (1%) and remains about constant for residential custody. The rate of joint custody awards remains constant when fathers are the alleged abuser and decreases by 5 % when mothers are the alleged abusers.
- Most of the shift in custody when mothers are the alleged abusers is to DSS (an increase of 7% for legal and 9% for residential) or Others (an increase of 9% for legal and 10% for residential).
- When the abuse involves violence between the adults, fathers are more often the alleged abuser.
- When fathers are the alleged abusers and there is evidence of the abuse in the record, mothers are awarded legal and residential custody approximately 7% more often.

Summary:

- ❖ At least 15% of child custody/visitation cases involve family members who are before the same court on a co-occurring family violence matter.
- ❖ Although there are a number of ways in which a court can become aware of family violence issues in custody and visitation cases, there is no standard method by which this is accomplished. References to family violence issues, when present, are not regularly or routinely contained in custody and visitation case records.
- ❖ Reference to child abuse is more likely to be included in custody and visitation case records than reference to violence between adults. Reference to child abuse affects legal and residential custody assignments.
- ❖ Reference to violence between adults, especially if there is a concurrent criminal or protective order in the same court, would assist the court in making custody assignments.

Conclusions:

- ❖ Knowledge of family violence issues affects custody assignments. This knowledge is important to the court since consideration of family violence is required by Va. code § 20-124.3 in determining the best interest of the child.
- ❖ Efforts should be made to assure that courts have information related to family violence, if present, when making custody assignments.
- ❖ This information should be routinely included in child custody case files so that it will be available for subsequent hearings that may be conducted by other judges or courts.

Notes:

561 children's records were examined involving 695 custody cases.

Only family violence cases that co-occurred in the same court during the same year were included. Criminal charges or protective orders may have been entered in other courts or in other years. There was no way to identify if the family violence matter occurred before or after the custody decision.

There was no way to identify why a custody petition was filed or if custody was contested.

Information related to family violence may have been available to the "hearing judge" but not noted in the file.

Visitation Conditions to Consider In Family Violence Cases

This list is not intended to be exhaustive of the conditions that may be placed on the visitation of a child in family violence cases. Likewise, it is not necessary to utilize all of the following conditions.

- ✓ Order supervised visitation
- ✓ Specify the date, time and location of the drop-off, pick-up and visitation location. Avoid ordering "reasonable visitation"
- ✓ Order that the *exchange* of the children be supervised by an independent & impartial person, such as a supervised visitation center
- ✓ Prohibit overnight visitation
- ✓ Avoid requiring or encouraging contact between the parties
- ✓ Prohibit alcohol and illegal drug intake 24 hours prior to and during the visitation
- ✓ Order the perpetrator to pay the costs of the supervised visitation
- ✓ Order the perpetrator to attend an batterer intervention program or substance abuse treatment as a condition of visitation
- ✓ Require a bond from the perpetrator of the violence for the return and safety of the child
- ✓ Order that the address of the victim and child be kept confidential
- ✓ Set a return date to review compliance with the order
- ✓ Specify any sanctions for violations of the order

Adapted from:

This material was adapted from the Family Violence Prevention Fund's 1995 publication entitled, "Domestic Violence and Children: Resolving Custody and Visitation Disputes. A National Judicial Curriculum." The Curriculum was authored by Nancy K.D. Lemon, with contributions from Peter Jaffe, Ph.d., C. Psych., and Barbara Hart. Production was made possible by a grant from the State Justice Institute.

This material also adapted from The National Council of Juvenile and Family Court Judges. Family Violence: A Model State Code. 1994. pg 34.

Key Points to Look for in a Home Study

A comprehensive home study should include the following for:

Each parent:

- Present Living Situation: household and structural makeup and employment;
- Background Information: childhood, educational and employment history of the parent;
- Marital Relationship: previous marriages, any children, problems in marriage and separation, injunctions for protection and investigations;
- Relationship with children: parental child care responsibilities, problems in relationships, present living arrangements;
- Custody and Visitation Plan: the parent's reasons for the custodial plan, plan for care, and feelings toward other parent's involvement.

Child(ren):

- Out of Home Activity: such as basic school activity and attitude, extra-curricular activities and friendship involvements;
- Family Issues: such as parent-child and sibling relationships and any allegations of abuse toward child(ren).

Collateral(s):

- School (Day Care) Official: issues involving absenteeism and tardiness, school performance problems;
- Other People Living in the Home: issues involving their relationship and living arrangements, basic background information.

Police Record:

- Any and all convictions, outstanding warrants, existing bail, bond and probation orders for all parties

Virginia Commission on Family Violence Prevention

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Thank You List, 1994-2000

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Secretary of the
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Virginia Capitol Police

Virginia Crime Commission

Virginia Department for the
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Virginia Department of Social
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Virginia Law Library

Virginia State Police

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**The Citizens of Virginia, especially those whose courageous public testimony
provided an inspiration for the Commission's efforts.**

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Virginia Commission on Family Violence Prevention
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Alexandria Victim/Witness
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Virginia Commonwealth's
Attorney's Association

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Virginia Congressional
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Virginia DSS-Central Regional
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Virginia Magistrate's
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