

A SAFER STATE

---of---

FAMILY

**A REPORT OF THE GOVERNOR'S FAMILY  
VIOLENCE COORDINATING COUNCIL OF WEST  
VIRGINIA**

**Submitted to  
Governor Cecil H. Underwood**

***Governor's Family Violence Coordinating Council of West Virginia  
Membership***

**Family Crisis Intervention Center**

Debbie Isenhardt, Survivor/Advocate

**Family Refuge Center**

Judy Quick, Survivor/Advocate

**National Association of Social Workers –  
WV Chapter**

Susan Sobkoviak-Gray

**Public Defender Services**

John Rogers, Esq., Executive Director

**WV Bureau of Senior Services**

Gaylene Miller, Commissioner

**WV Coalition Against Domestic Violence**

Susan Julian, Team Coordinator (Chair of  
the Coordinating Council)

Diane Reese, Team Coordinator

**WV Dept. of Education**

Sallie Harrington

**WV Dept. of Health & Human Resources**

Joan Ohl, Secretary

Shana Phares (designee)

**WV Dept. of Military Affairs & Public  
Safety**

Otis Cox, Secretary

Norb Federspeil (designee)

Wyetta Fredericks (designee)

**WV House of Delegates**

Hon. Barbara Fleischauer

Hon. Charles Trump, IV

**WV Prosecuting Attorneys Institute**

Virginia Jackson Hopkins, Executive  
Director (original)

Bill Charnock, Executive Director (current)

Henrietta Hartman (designee)

**WV Senate**

Hon. Larry Kimble (original)

Hon. Michael Oliverio

**WV Sheriffs Association**

Donna Hawkins, Executive Director

**WV State Medical Association**

George Rider, Executive Director (original)

Evan Jenkins, Executive Director (current)

Nancie Albright (designee)

**WV Supreme Court of Appeals**

Ted Philyaw, Administrative Director  
(original)

James Albert, Administrative Director  
(current)

Peggy Rash (designee)

**WV Women's Commission**

Beth Marquart, Director (original)

Joyce M. Stover, Director (current)

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The Governor's Family Violence Coordinating Council gratefully acknowledges the contributions and assistance it has received. Council members and their designees met regularly for eighteen months and attended at least one public forum. Special thanks goes to all those who tirelessly served on Council Work Groups (see Work Group membership lists attached).

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Many comments from Council and Work Group members helped shape the content and format of this report, but special thanks goes to Barbara Gebhard, Penny Hartman, Donna Hawkins, Sue Julian, Shana Phares, Peggy Rash, Diane Reese, and Tonia Thomas for their editorial expertise. We are grateful to Beth Morrison for organizing meetings, conducting research, and serving as primary author of this document.

In addition to contributing their knowledge and enthusiasm to the preparation of this report, members of the Family Violence Coordinating Council have learned a great deal. We have gained a greater appreciation for the role each of us plays in trying to reduce and prevent domestic violence. We understand even more clearly that no single agency or profession can address the problem effectively. We present this Report in honor of the victims and survivors of domestic abuse with the hope that, together, we can make West Virginia a safer place for its citizens.

***There's NO excuse  
for domestic violence.***

December 1, 1999

The Honorable Cecil H. Underwood  
Governor of West Virginia  
Office of the Governor  
Charleston, WV 25305

Dear Governor Underwood:

On behalf of the Family Violence Coordinating Council I want to thank you for taking a leadership role in addressing the issue of domestic and family violence. Establishing the Governor's Family Violence Coordinating Council through Executive Order # 18-97 authorized and enabled representatives from various statewide agencies and organizations to study and analyze the status of domestic and family violence in West Virginia. Over the past two years support given by the Governor's Office and by the Governor's Cabinet on Children and Families grounded the work of the Council in the conviction that your administration takes seriously the responsibility of seeking long-term and sustainable solutions to end domestic and family violence in West Virginia homes.

On behalf of the Family Violence Coordinating Council I present to you with great pride the Council's report on the status of domestic and family violence: "*A Safer State of Family*." Members of the Council listened to the voices of survivors, researched available intervention services, compiled data from surveys, assessed findings, and shaped recommendations. Members of the Council were transformed in some manner, either through a deepened understanding of domestic and family violence or through an enhanced understanding of government, state, and nonprofit systems. The experience of the past two years highlighted the critical need to forge partnerships between public and private worlds in order to maximize the State's moral obligation to provide safe community environments for all citizens.

The Council met the mandate put forth in the Executive Order. The task before us now is to develop an implementation plan that will make this report a living document of social change. We are grateful for your leadership and support in the past. We look forward to the challenge of the future.

Sincerely,

Susan M. Julian  
Chair of the Governor's Family Violence Coordinating Council

# Twenty Years.....

*Twenty years ago when I left law school and returned to West Virginia, there was no domestic violence legislation, no law enforcement policy about arrest, no awareness about domestic violence by court personnel anywhere in the country.*

*But I have also seen change in the past twenty years; more change than occurred in 2000 years before. I watched as a truly grassroots effort of survivors, volunteers, shelter boards, pro bono lawyers, advocates, and police said, "It's not ok."*

*After twenty years, we know that:*

- *The dynamics of abusive relationships work against intervention;*
- *once you understand the problem, a legal response is the only response that makes sense;*
- *violence in our streets is a direct result of violence in our homes;*
- *victims of domestic violence do not want to be victims;*
- *batterers are selective in their violence, are manipulative, and want absolute power and control over their victims;*
- *while there is no good place to be a victim of domestic violence, WV, with our geographic isolation of many victims and traditional views about family and sex roles, can be especially dangerous;*
- *that violence is pandemic in families, which is the foundation of society.*

*We have come a long way and we have learned a lot, but we are not finished.*

*In the next twenty years:*

- *West Virginia must have a real stalking law;*
- *we should spend more on battered women's shelters than on animal shelters;*
- *we must continue to educate judges, police, policy makers, and legislators about the dynamics of abusive relationships, because law in vacuum doesn't make sense;*
- *we must spend more money on prevention so we can spend less on putting lives back together;*
- *we must constantly be aware that policies like "welfare reform" and "parent mediation" have disproportionately adverse consequences on victims of domestic violence;*
- *we must listen to survivors and continue to learn from them;*
- *we must learn why some children from violent homes grow up to be abusers and others grow up to be cops;*

*We must collectively accept responsibility to address criminal behavior in our homes. It is not a "family problem" but a societal problem that can't be solved until society collectively responds.*

*It has been a privilege to watch and note the changes I have described. I can tell my grandchildren that at the close of the 20<sup>th</sup> century, we finally began to address our most serious problem: wars in our own homes. I'm proud of that. I'm blessed to have met, worked with, and enjoyed the friendship of wonderful, generous, compassionate people.*

*Thank you for your work with victims of domestic violence.*

Condensed from Keynote Remarks by Margaret Phipps Brown, J.D. to participants of "Crossing the Lines of Justice: Full Faith and Credit Conference"  
Charleston, West Virginia  
May 13, 1999

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# Introduction

Over the past three decades, family violence, which includes child maltreatment, domestic violence and elder abuse, has emerged as a major social, health, and law enforcement issue. In addition to child and adult homicides, family violence contributes to a broad array of fatal and non-fatal injuries and medical and psychiatric disorders each year. In addition, family violence has been associated with numerous social problems, including teen pregnancy, runaway and homeless youth, alcoholism and substance abuse, and crime and delinquency. The association of family violence victimization with such an extensive range of health, mental health, and behavioral problems suggests that interventions that can lead to the reduction or prevention of family violence would contribute to the resolution of these other problems as well.

West Virginia mirrors the national scene in terms of the devastating impact of family violence and the multiple systems of prevention and intervention services. The seriousness and sense of urgency to address the problem has caused policy makers, service providers and advocates to initiate a broad and diverse array of prevention and intervention programs. Services are in place to prevent violence, identify victims and perpetrators, protect and support victims, enforce laws, hold perpetrators accountable, and deter further violence. Unfortunately, the availability of resources and coordination of effort among disciplines has not kept pace with the increased awareness of family violence and the critical need for services. The Governor's Family Violence Coordinating Council has been afforded a timely and valuable opportunity to examine the problems, propose solutions, and advocate for continued progress toward victim safety and batterer accountability.

## Overview

Governor Underwood created the state's first Family Violence Coordinating Council in December 1997 by Executive Order Number 18-97. Citing statistics to demonstrate the extent of injuries and death attributable to domestic and family violence, and the need for greater understanding of the problem, the Governor specifically asked the Council to:

- make recommendations on the current standards and any standards which may be developed to accurately measure the nature and extent of family/domestic violence;
- identify and evaluate family/domestic violence programs and resources for victims and their families;
- make recommendations regarding legislative or other changes needed to adequately address the intervention and prevention of family/domestic violence;
- make recommendations regarding reduction and elimination of family/domestic violence, including public education and awareness;

- identify other areas of family/domestic violence that may call for further study; and
- present a report for future action to the Governor, the Speaker of the House, the President of the Senate, and the Chief Justice of the West Virginia Supreme Court of Appeals by January 31, 2000.

Responding to domestic and family violence requires a coordinated response among criminal justice, legal, law enforcement, social services, health, education, religious, and other community organizations. Recognizing this, the Governor appointed representatives from a variety of state and local organizations, as well as survivors of domestic violence and members of the Legislature, to serve on the nineteen-member Family Violence Coordinating Council. The following mission statement was adopted during the first meeting in March 1998:

*The Family Violence Coordinating Council will assess the status of family violence in West Virginia and present recommendations for prevention and intervention services to assure victim safety, strengthen perpetrator accountability and increase community awareness.*

For purposes of this report, family violence will be examined from the perspective of adult survivors of domestic abuse, children whose family is involved in domestic violence, and elderly victims of abuse/neglect by a partner or family member. Other forms of family violence, especially child maltreatment, and their inter-relatedness to one another, require additional research and on-going planning.

## **The Process**

Five Work Groups were established by the Council to study specific issues and suggest recommendations. Each committee designed its own strategy for data collection after first examining information already available through other sources. The Legal Issues Work Group examined the role of the 911 system, law enforcement, lawyers, magistrates, and judges in responding to family violence victims. The Batterers Work Group merged with an ongoing committee of the West Virginia Coalition Against Domestic Violence to identify an effective system of batterer accountability and education. The Victims Services Work Group identified the need for additional services for victims across the age spectrum. The Health Work Group addressed the healthcare systems' response to victims of family violence and educational needs of professionals. The Education Work Group examined professional preparation and public awareness. One-hundred thirty people have contributed their knowledge and experience to Work Group activities.

Information was also collected through four public forums, held in Barboursville, Beckley, Martinsburg, and Morgantown between August and November of 1998. Council members moderated and recorded the two-hour forums, which were designed to both educate participants and to gather input from interested and concerned citizens about the problem of family violence. During the first 45 minutes of each forum, a panel of victims



and professionals with first-hand knowledge of the family violence response system in their community were asked to briefly address three questions from their perspective: “With respect to family violence prevention and intervention, 1) what is working well in your community; 2) what concerns do you have regarding the safety of victims and the accountability of perpetrators; and 3) what possible solutions can you identify to address the concerns you raise?” Panels included family violence advocates, prosecutors, municipal and county law enforcement officers, hospital representatives, therapists/facilitators of batterer intervention programs, victims, a judge, a children’s advocate, and a representative from Adult Protective Services.

One hundred twenty-eight citizens attended the forums. Nineteen people offered prepared comments, two people offered their comments to the Council in writing, and an additional number of people participated in informal question and answer sessions. A good deal of information and testimony highlighted outstanding initiatives by some individuals and groups in all systems. The Council also found that a multitude of problems exists in our effort to protect victims and hold perpetrators accountable.

To determine the types and location of services available to victims of domestic violence in each county, the licensed domestic violence program staff completed two surveys. One survey focused on adult victims, inquiring about services offered by the licensed programs and other community providers, populations perceived to be served and “underserved” by the programs, and staff opinions about service expansion needs. The second survey was similar in content but focused on the needs of child victims.

In addition, the Council gathered valuable information from a variety of state-level and community-based groups already documenting problems and developing solutions in the area of family violence. To assure a comprehensive analysis and avoid duplication of effort, many of those groups generously shared their time and information with Council members and staff, including the West Virginia Coalition Against Domestic Violence Central Service Office and thirteen licensed domestic violence programs, the Family Violence Prevention Fund’s West Virginia Healthcare Partnership Initiative, the Division of Criminal Justice Services, the West Virginia State Bar’s Commission on Children and the Law, the Department of Education, the Bureau for Public Health’s Office of the Chief Medical Examiner and Office of Community and Rural Health Services, WVU’s Center for Rural Emergency Medicine, and community response committees known as STOP Teams. (See Appendix A for listing of related initiatives.)

## **Recommendations**

Through the Governor’s leadership, the Family Violence Coordinating Council has had the opportunity to examine, from a variety of perspectives, the complexities of domestic violence and our state’s response to the problem. Our recommendations will:

- expand the availability of safe and effective support services for adult and child victims;

- increase coordination and communication among professionals in the legal system and make the court process a more effective means for prioritizing victims safety and holding batterers accountable;
- strengthen the healthcare response by teaching providers to look for and address the physical and mental health symptoms of domestic violence;
- heighten the awareness of all professionals about the dynamics of domestic violence and their role in intervention and prevention;
- support a coordinated response to domestic violence at both the community and state levels; and
- provide direction for further research.

## The Faces of Victims

Melanie Beth Winfrey, 25, was found dead early on the morning of July 1, 1999 at a secluded strip mine in Pax. Her long-time boyfriend Senior West Virginia State Trooper Rodney D. Robinson, 35, was also dead.

Raleigh County Sheriff's deputies had been called to Winfrey's home in Prosperity at 2:30 that morning. They heard gun shots and were called to a nearby church. Robinson fled, apparently with Winfrey, either wounded or dead at that point, in an unmarked police cruiser.

Deputies found them hours later at the mine site. On June 9, Winfrey had asked the Raleigh County Magistrate Court to prevent Robinson from contacting her. In her court file, she wrote that Robinson had pulled his gun on her on June 1, called her daily and would not let her retrieve personal belongings from his apartment.

State Police said Robinson was placed on administrative leave until her court petition was resolved. A trooper tried to contact her about investigating Robinson, but she said she did not want to do anything to hurt his career. Her court petition was dismissed. Robinson returned to duty on June 17.

They are survived by a 2-year-old daughter.

Compiled from reports in *The Beckley Register-Herald*, July 2, 1999



# The Faces of Victims

*“Victims are all ages. First I was a victim of child abuse. As an adult, my stepson and second husband abused me. I learned that ‘bad love is better than no love.’ I still have a hard time when people are good to me.”*

*-Survivor (Morgantown Public Forum, 9-1-98)*

*“This is what happened the night before we had to come to the shelter. This was the worst time. Dad was mad because we were leaving. He said if we could make it to the road, then we could leave. He fired bullets at us as we ran through the yard. He thought we would go to our neighbor’s house. We tricked him. We went down to the creek and waded for about one mile to a friend’s house. The creek was freezing. I was really scared. Mom told us to whisper and stay close to her, so he couldn’t hear us or see us. Our friend brought us to the shelter.”*

*-8-year-old resident of a domestic violence shelter.*

## Adult Victims of Domestic Violence

Being female is the greatest risk factor for adult abuse by an intimate partner. It is estimated that 4 million American women experience a serious assault by an intimate partner during an average 12-month period.<sup>1</sup> Nearly 1 in 3 adult women experience at least one physical assault by a partner during adulthood.<sup>2</sup> Statistics indicate that the overwhelming majority of victims (90 – 95%)<sup>3</sup> are women and the perpetrators (95%)<sup>4</sup> are men. West Virginia law enforcement statistics reveal that of the 10,397 complaints of domestic violence to law enforcement agencies in 1998, 82.5% of victims were females and 17.5% were males. Conversely, almost eighty-five percent (84.5%) of offenders were male and 15.5% were female.<sup>5</sup>

Male violence against women can be deadly. Seventy percent of intimate homicide victims are female.<sup>6</sup> Approximately one-third of all murders in West Virginia are attributed to domestic violence, a consistent trend for the past ten years.<sup>7</sup> In 1998, 24 of the 80 murders reported by law enforcement agencies, were domestic violence-related.

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<sup>1</sup> American Psychological Association. *Violence and the Family: Report of the American Psychological Association Presidential Task Force on Violence and the Family*, 1996, p. 10.

<sup>2</sup> Ibid, p. 11.

<sup>3</sup> *Selected Findings: Violence Between Intimates* (NCJ-149259), Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, November 1994.

<sup>4</sup> *A Report of the Violence against Women Research Strategic Planning Workshop* sponsored by the National Institute of Justice in cooperation with the U.S. Department of Health and Human Services, 1995.

<sup>5</sup> Publication of the Office of the Governor. *Crime in West Virginia 1998*, 1999.

<sup>6</sup> Special Report. *National Crime Victimization Survey, Violence Against Women* (NCJ-145325), Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, January 1994.

<sup>7</sup> Publication of the Office of the Governor. *Crime in West Virginia 1998*, 1999.

Although females are also perpetrators of intimate partner violence, much of female violence is committed in self-defense, and inflicts less injury than male violence.<sup>8</sup>

Victims may experience domestic violence at any age. Nationally, women ages 19-29 reported more violence by intimates than any other age group.<sup>9</sup> West Virginia statistics for 1998 indicate the youngest victim was one year old, the oldest victim was 97 years old, and the average age of the victim was 31.<sup>10</sup> A state task force examining domestic violence among the elderly reported that seniors are fearful, embarrassed, feel vulnerable and fragile, and feel perceived as less valuable by society. This may result in underreporting of domestic violence and may influence the type of response victims receive.<sup>11</sup>

The National Center on Elder Abuse reports that researchers estimate somewhere between 820,000 and 1,860,000 people over age 65 were victims of domestic abuse in 1996. West Virginia currently has the highest elderly population per capita in the country. It is forecast that some 60% of those over 65 by 2020 will be women, and by age 80, women will likely compose approximately 70% of the elderly in the state.<sup>12</sup> While these statistics are startling, it is important to note that vulnerability, as opposed to gender, is the greatest risk factor for abuse of the elderly by a partner, family member or caretaker.

Race is not indicative of who is at risk of domestic violence. Domestic violence is statistically consistent across racial and ethnic boundaries.<sup>13</sup> In West Virginia, ethnic diversity is limited, with less than 5% of the state's population composed of people of color. Combined with the fact that people of color may not perceive emotionally and/or physically abusive behavior as "domestic violence," this group of victims is likely to be underserved by the traditional systems that respond to domestic violence.<sup>14</sup>

Domestic abuse prevalence (emotional, physical and sexual) has been found to be the same for women with and without disabilities.<sup>15</sup> However, women with disabilities stay with their batterers almost twice as long as women without disabilities.<sup>16</sup> Many women with disabilities fail to report because they are dependent on their abusers and fear

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<sup>8</sup> Chalk and King, (Eds). Violence in Families: Assessing Prevention & Treatment Programs, National Resource Council and Institute of Medicine, 1998, p. 42

<sup>9</sup> Ibid, p. 4.

<sup>10</sup> Publication of the Office of the Governor . Crime in West Virginia 1998, 1999.

<sup>11</sup> West Virginia Coalition Against Domestic Violence Rural Domestic Violence and Child Victimization Enforcement Grant Program, Grant #96-RVAW-007.

<sup>12</sup> *Commission on the Future of the West Virginia Judicial System Final Report*, 1998, p. 7.

<sup>13</sup> Special Report. *Violence Against Women: Estimates from the Redesigned Survey* (NCJ-154348), Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, August 1995.

Bureau of Justice Statistics Special Report, 1995, p. 3.

<sup>14</sup> West Virginia Coalition Against Domestic Violence Rural Domestic Violence and Child Victimization Enforcement Grant Program, Grant #96-RVAW-007.

<sup>15</sup> Young, M., Nosek, M., Howland, C., Chanpong, G., and Rintala, D. Prevalence of abuse of women with physical disabilities. *Archives of Physical Medicine and Rehabilitation Special Issue*, 1997, Vol. 78 (12, Suppl. 5) S34-S38.

<sup>16</sup> Nosek, M., Principal Investigator for *Findings on Abuse*, for the Center for Research on Women with Disabilities, Department of Physical Medicine and Rehabilitation, Baylor College of Medicine, Houston, TX.

being abandoned or institutionalized. They are often unable to leave abusive or violent partners because of the non-availability or inaccessibility of services or the fear of abandoning dependent children.<sup>17</sup>

Domestic violence occurs within same-sex relationships with the same statistical frequency as in heterosexual relationships. The prevalence of domestic violence among gay and lesbian couples is approximately 25 - 33%.<sup>18</sup> Each year, between 50,000 and 100,000 lesbian women and as many as 500,000 gay men are battered.<sup>19</sup>

Domestic violence may affect a woman's ability to financially support herself and her children. Past and current victims of domestic violence are over-represented in the welfare population. The majority of welfare recipients has experienced domestic abuse in their adult lives, and a high percentage is currently abused. Abused (past or current) welfare recipients experience higher levels of health or mental health problems such as a physical disability, or serious or acute depression. Research shows that abused women do seek employment, but are frequently unable to maintain it due to interference by perpetrators of domestic violence. Fifteen to fifty percent of abused women report that their partner creates barriers to education, training or work. Examples of abusers' sabotage of their victims' attempts to work include: calling her employer and ordering the victim to quit; making allegations requiring the victim to appear before the police, court or social services; threatening to kill the victim; committing suicide in front of the victim; sabotaging the victim's car; beating her up on the way to an interview; stealing her work uniforms; starting fights each day before school or work; breaking the victim's writing arm repeatedly; manipulating her schedule by demanding visitation with the children; stalking; starting fights or threatening abuse which affects her ability to concentrate at work; or encouraging continued drug addiction.<sup>20</sup>

### **Child Victims of Domestic Violence**

Violence within families accounts for the majority of physical and emotional harm suffered by children in our country.<sup>21</sup> A review of fourteen studies examining the overlap between child abuse and spouse abuse concludes that in 40 to 60% of families where either child abuse or domestic violence is identified, it is likely that both forms of abuse exist.<sup>22</sup> In addition, girls are five to six times more likely to be sexually abused by fathers who

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<sup>17</sup> Nosek, Howland and Young. *Abuse of Women with Disabilities: Policy Implications*. The Center for Research on Women with Disabilities, Department of Physical Medicine and Rehabilitation, Baylor College of Medicine, Houston, TX, 1996.

<sup>18</sup> Barnes, S. It's just a quarrel, *American Bar Association Journal*, February, 1998.

<sup>19</sup> Murphy, L. *Queer Justice: Equal Protection for Victims of Same-Sex Domestic Violence*, 30 Val. U. L. Rev. 335, 1995.

<sup>20</sup> Raphael and Tolman. *Trapped by Poverty, Trapped by Abuse: New Evidence Documenting the Relationship Between Domestic Violence and Welfare*, 1997.

<sup>21</sup> Perry, B. Incubated in terror: Neurodevelopmental factors in the "cycle of violence." In J.D. Osofsky, (Ed.), *Children, Youth and Violence: Searching for Solutions*. New York: Guilford Press, 1996.

<sup>22</sup> Edleson, J. *The overlap between child maltreatment and woman abuse*. Document prepared for the National Resource Center on Domestic Violence, 1997.

commit acts of domestic violence than by non-violent fathers.<sup>23</sup> Most research concludes that children who witness abuse and are themselves abused have more serious behavior, emotional and intellectual problems than children who witness adult violence alone.<sup>24 25 26</sup>

Regardless of whether they are physically harmed, children of all ages are deeply affected by witnessing domestic violence. Infants exposed to violence may not develop the attachments to their caretakers that are critical for healthy development. In extreme cases, infants may suffer from “failure to thrive.” Preschool children in violent homes may regress developmentally and suffer sleep disturbances and nightmares. School-age children who witness violence exhibit a range of problem behaviors including depression, anxiety and violence toward others.<sup>27</sup> Adolescents tend to run away, become pregnant, experience suicidal or homicidal thoughts, or abuse drugs or alcohol.<sup>28</sup>

Further, domestic violence compromises the battered woman’s and the perpetrator’s ability to parent. The mother may not be able to care for her child due to emotional exhaustion or trauma caused by years of abuse or injuries sustained during an attack. One study found that mothers were eight times more likely to hurt their children while they themselves were being battered than after they left the abusive relationship.<sup>29</sup> A perpetrator is not providing good parenting when he physically or verbally attacks the child’s mother. Batterers sometimes intentionally injure children in an attempt to control the mother, and children run the risk of being injured during an attack on their mother either because they inadvertently get in the way or, in the case of adolescents, attempt to intervene in violent episodes.<sup>30</sup>

The cycle of violence is often perpetuated in children who witness or physically experience abuse. Adolescent males who have grown up in violent homes are three times more likely to recreate the abusive relationships they have seen.<sup>31</sup> A comparison of delinquent and nondelinquent youth found that a history of family violence or abuse is the

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<sup>23</sup> Forsstrom-Cohen, B. and Rosenbaum, A. The effects of parental marital violence on young adults: An exploratory investigation. *Journal of Marriage and the Family*, May, 1985.

<sup>24</sup> Hughes, H., Parkinson, D. and Vargo, M. Witnessing spouse abuse and experiencing physical abuse: A “double whammy?” *Journal of Family Violence*, 4, 1989.

<sup>25</sup> McClosky, L., Figueredo, A. and Koss, M. The effects of systemic family violence on children’s mental health. *Child Development*, 66, 1995.

<sup>26</sup> Silvern, L., Karyl, J., Waelde, L., Hodges, W., Starek, J., Heidt, E., and Min, Kyung. Restrospective reports of parental partner abuse: Relationships to depression, trauma symptoms and self-esteem among college students. *Journal of Family Violence*, 10, 1995.

<sup>27</sup> Jaffee, P. and Sudermann, J. Child witnesses of women abuse: Research and community responses, in Understanding Partner Violence: Prevalence, Causes, Consequences, and Solutions. (Eds.) Stith, S. and Straus, M. Families in Focus Services, Vol. II, 1995.

<sup>28</sup> Sinclair, D. Understanding Wife Assault: A Training Manual for Counselors and Advocates. Toronto, Ontario: Ontario Government Bookstore, Publications Services Section, 1985.

<sup>29</sup> Straus, M.A., Gelles, R., and Steinmets, S. Behind Closed Doors: Violence in the American Family. Garden City, NJ: Doubleday, Anchor Press, 1980.

<sup>30</sup> Carter, J. and Schechter, S. *Child Abuse and Domestic Violence: Creating Community Partnerships for Safe Families*. Position paper prepared by the Family Violence Prevention Fund, 1997.

<sup>31</sup> Straus, M.A., Gelles, R., and Steinmets, S., 1980.



most significant difference between the two groups.<sup>32</sup> Even very young children can learn that violence is an appropriate way to resolve conflicts and that violence is somehow connected to the expression of love.<sup>33</sup>

In our own state, the thirteen licensed domestic violence shelters housed 1,747 children between July 1, 1997 and June 30, 1998, according to the 1997 – 1998 Data Summary Report of the West Virginia Coalition Against Domestic Violence. Almost one-third of those were under the age of five. In addition to witnessing violence between the adults in the household, it is estimated by program staff that one-fourth to three-fourths of the children served by the licensed programs are also direct victims of child abuse or neglect. The Department of Health and Human Resources reported

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<sup>32</sup> Miller, G. Violence by and against America's children. *Journal of Juvenile Justice Digest*, XVII(12), 1989.

<sup>33</sup> Zeanah, C. and Scheeringa, M. The experience and effects of violence in infancy. J.D. Osofsky (Ed.), Children, Youth and Violence: Searching for Solutions. New York: Guilford Press, 1996.

## Chapter 2

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### Victim Services

Vivian Chaney turned to the courts last year when she said her boyfriend shoved her against a wall and smashed nose, then grabbed throat and pushed her down a flight of stairs. She turned to the courts again in February when she said he threatened to kill her and her children.

Police say Rodney Little nearly carried out his threat when he shot Chaney and her 9-year-old daughter in broad daylight in Fairmont's Windmill Park last Saturday. The shooting occurred after a night in which Little called Chaney more than 30 times, until 4:00 a.m., she said.

The shooting was the culmination of a stormy relationship that saw police officers summoned to Chaney's home time after time to take statements during the past year. Chaney twice turned to courts for 90-day protection orders against Little. He was arrested both times for violating them, according to court records.

Charges stemming from the first protection order was not pursued when Chaney failed to show up in court to testify. Bond was set at \$100,000 after Little violated the second protection order, but a magistrate reduced the bond to \$20,000 and Little was released the same day.

Little is charged with two counts of malicious wounding and is being held at the Marion County Jail on \$100,000 bond.

Condensed from *The Beckley Register-Herald*, April 28, 1996



# Victim Services

*“Victims...are afraid to trust the system. They have been hurt more than helped. People who have been hurt need immediate, accessible help.”*

*-Service Provider (Martinsburg Public Forum, 8-20-98)*

*“I feel safe at the shelter. I like to play outside on the swings. I am glad we came back here. When we left the shelter to go home last time, I thought things would be different. Dad promised that he would quit drinking and fighting. He lied to us. I wanted to come back to the shelter after I was home two weeks. When we left this time, we slept in the car in Aldi’s parking lot for two days. I would rather stay here or in a car than with him. Anywhere but with him.”*

*-7-year-old resident of a domestic violence shelter.*

*“We promised America’s women real hope, not just talk. Now we have got to deliver with funds for millions of women and families that have suffered – for shelter, for counseling, for training, for law enforcement – all of which is so desperately needed.... Some argue that we can’t afford to live up to our commitments. I say we cannot afford not to.”*

*-The Honorable Janet Reno, U.S. Attorney General*

## OVERVIEW

For three decades a national movement of grassroots activists, the battered women’s movement, has sought the recognition of domestic violence as a significant social, economic and political problem requiring identification and intervention. Through the mid-1970s, the professional community viewed intimate partner violence as a family matter, as the fault of the victim for provoking the perpetrator, and not within the purview of their responsibilities. The first services for victims of domestic violence were provided by community activists and formerly battered women who saw the need to provide places of safety and emotional support for other women. As shelter and safety became available, more women felt safe to talk about their experiences and reach out to other women. Battered women’s shelters, counseling services and hot lines grew rapidly in the late 1970’s, fostered by the groundswell of feminist activism and a growing realization of the magnitude of the problem.

Today, there are approximately 1,800 programs in the United States for victims of violence by spouses and intimate partners.<sup>1</sup> The shelter movement has evolved to include a broad array of related services, including 24-hour hotlines, support groups, job training, medical and legal advocacy, housing assistance, and referral to mental health and substance abuse treatment. Coalitions of domestic violence programs exist in every state. State coalition offices coordinate statewide prevention projects, provide technical assistance to the direct service

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<sup>1</sup> Chalk, R. and King, P., (Eds). Violence In Families: Assessing Prevention and Treatment Programs. Washington, D.C.: National Academy Press, 1998, p. 110.

programs and other organizations in the state that request it, promote education and public awareness, and work to strengthen laws and public policy.

West Virginia's first programs for victims of family and domestic violence opened in 1974, providing emergency shelter, crisis counseling by phone or in person, support groups, community awareness, and advocacy with service systems on behalf of victims of domestic violence. They received little or no public funding and relied largely on private foundations, religious and social groups for support.

Significant improvements have occurred since the early 1970s. Funding has been earmarked for domestic violence services from the Social Security Act (Title XX), the Victims of Crime Act (VOCA) and the Violence Against Women Act (VAWA). Fees have been added to marriage licenses and divorce filings by the West Virginia Legislature to assist local communities in maintaining programs and services for victims of domestic violence and their children. Private foundations have helped support county outreach offices. The West Virginia Legislature has responded to the problem of domestic violence by passing the Prevention of Domestic Violence Act in 1979, and periodically amending the state code to afford further protections for victims and to hold perpetrators accountable.

## **FINDINGS AND RECOMMENDATIONS**

As of January 2000, thirteen licensed domestic violence programs provide crisis intervention, safety planning, shelter, counseling and support, legal and medical advocacy, transportation, children's advocacy and programs, community awareness programs, and case management across the state. Each program operates a 24-hour-a-day, seven-day-a-week residential program, as well as providing advocacy services through outreach offices in the surrounding counties served by that program. Staff and resources tend to be concentrated in the counties where residential services are located, but each outreach office has an advocate who offers a range of supportive services to victims. Some programs have expanded their services to include transitional housing and other services to help families move from a life of crisis and dependency to one of self-sufficiency.

The domestic violence programs in our state are members of a private, not-for-profit association called the West Virginia Coalition Against Domestic Violence. The Coalition Central Service Office focuses on statewide prevention of domestic violence and provides training and technical assistance, policy analysis and advocacy, public awareness, and other support to the direct service programs.

Program quality is assured through the Family Protection Services Board, a group of citizens appointed by the Governor. The Family Protection Services Board was created by passage of the Domestic Violence Act of 1989, which mandated the licensure of all domestic violence programs in the state, established the membership and duties of the Board, and provided directives for the allocation of funds collected through fees on marriages and divorces in West Virginia. The Board developed licensure standards for the domestic violence programs and monitors compliance annually. In 1998, the Board was also mandated to develop and assure compliance with licensing standards for batterer intervention programs.

Several projects have been initiated across the state to meet special demands, in addition to the traditional complement of residential and non-residential services offered by the licensed programs. Monitored visitation centers have been established in several communities to address the need for 1) a safe location for drop-off and pick-up of children in families with a history of abuse and 2) a neutral, supervised setting for court-ordered visitation in divorce cases. Increasing numbers of children are in custody and visitation situations based on agreements that may not be acceptable to all parties. In addition, battering men often become more violent when battered women and children seek safety outside their homes, and particularly when the woman plans to file for divorce. Unsupervised visitation may provide the batterer with opportunities for intimidation and/or abuse of his partner, the children or other adults. Even in cases where there is no violence, parents often use visitation as an opportunity to influence the child or engage in other inappropriate behaviors that may place the child at risk. By providing a protected environment, monitored visitation centers can serve as a safe place for custodial parents to temporarily transfer custody of their children to non-custodial parents. Support for this initiative has come primarily from the licensed domestic violence programs and the Bureau for Child Support Enforcement. As of December 1, 1999, there were five monitored visitation centers in West Virginia.

Many women feel they cannot leave their abuser because they have no immediate means of support and no safe place to live while they develop skills necessary for self-sufficiency. Transitional housing provides a safe and independent living arrangement for women and their children for up to two years after they leave a residential domestic violence program. Time in transitional housing allows women the opportunity to locate a job, acquire job skills, accumulate savings, and otherwise begin to build a safe and secure life. Currently, there are transitional living programs in Welch and Parkersburg.

A state initiative spearheaded by the West Virginia Coalition Against Domestic Violence and the state Department of Health and Human Resources has brought people together to address the potential dangers posed to victims of domestic violence by current public assistance and child support enforcement processes. When Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, replacing the old Aid to Families with Dependent Children (AFDC) with Temporary Assistance to Needy Families (TANF), they recognized that domestic violence can be a barrier to victims' ability to achieve self-sufficiency envisioned by welfare and child support reform. The Wellstone-Murray Family Violence Option permits states to 1) screen for domestic violence issues, 2) provide families with counseling and support services, and 3) waive certain TANF and child support enforcement requirements as necessary to reduce the risk of violence. The West Virginia Department of Health and Human Resources and the West Virginia Coalition Against Domestic Violence jointly formed the *WV Works and Family Violence Option Training Committee* to develop policies, procedures and staff training in order to implement the Family Violence Option. The availability of trained DHHR staff to screen for domestic violence and offer support and waivers to certain federal requirements will remove some of the barriers to self-sufficiency faced by individual battered women and their children.

Testimony by victims and community professionals during each of the four public forums conducted by the Family Violence Coordinating Council reinforced the value and necessity of

services provided by the local domestic violence programs. According to WVCADV data, 25,639 persons were served by the programs in FY 98. One-thousand six-hundred forty-six (1,646) adults and 1,747 children stayed at a shelter; while 19,421 adults and 2,825 children benefited from the program's used a non-residential service. Professionals at the public hearings praised the program staff for their skills in working with victims. Survivors testified that they could not have turned their lives around without the assistance of their local programs.

To better understand what services are accessible to victims of domestic violence in each county in the state and where gaps exist, the Family Violence Coordinating Council Victim Services Work Group conducted surveys<sup>2</sup> of the licensed programs. Information was also gathered from the West Virginia Coalition Against Domestic Violence *Rural Outreach Project*. The goal of the *Rural Outreach Project* is to provide more relevant and sensitive domestic violence services to female victims of three underserved groups in West Virginia:

- the elderly, aged 55 and above, where the perpetrators may be spouses, other family members, or other caretakers in non-institutional settings;
- the disabled, in particular people with physical disabilities, including the loss or impairment of physical mobility, sight, hearing, and speech; and
- communities of color as an inclusive identification of Hispanics, Asians, African – Americans, Native Americans, and other non-Caucasian groups.

Advisory Councils, established for all three populations, developed core issues and goals to help direct changes in service delivery and outreach activities. The following section presents results of the Family Violence Coordinating Council Victim Services survey and the Rural Outreach Project Advisory Councils, and recommendations to address the findings.

### ***Issue 1: Services for Adult Victims***

- *Capacity of licensed domestic violence programs.* All counties in West Virginia have some service available for adult victims of domestic violence through the thirteen licensed domestic violence programs, although no county has sufficient capacity to meet the need. In particular, the 38 county outreach offices, which have at least a part-time staff person, struggle to provide advocacy and case management services to adult victims, develop services for child victims, provide community outreach and education, and facilitate coordination among community agencies working on domestic violence issues. Four counties still have no outreach office.
- *Capacity of other community agencies to serve domestic violence victims.* Most counties have other providers that serve specific needs of child and adult victims of domestic violence (e.g., legal services, medical services, therapy, adult basic education). The extent to which providers of those services have training and experience in meeting the needs of domestic violence victims varies, and gaps in communication and coordination hinder victim access.

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<sup>2</sup> See Appendices B and D for the Adult Services Survey and a more detailed analysis of the results.

- *Service expansion priorities.* The five services for adult victims identified most frequently by the licensed programs as in need of expansion and/or development include:
  1. Transitional housing
  2. Legal services
  3. Batterer intervention programs
  4. Monitored visitation centers
  5. Cooperative programs with law enforcement agencies
- *Underserved domestic violence victims.* The Victim Services survey results indicate that licensed domestic violence programs primarily serve adult females between the ages of 18 and 60. Programs do not feel they are meeting the needs of older females, people with mental health and/or addiction problems, residents of isolated and outlying communities, people with physical disabilities, and lesbians and gays. For example, there is no clear source of shelter and other assistance for battered women who have mental health or substance abuse problems because mental health system is not trained to deal with domestic violence and the domestic violence programs are not equipped to handle mental illness or addictions. Older women often do not feel comfortable staying at a residential program with younger women and small children; they are not accustomed to the noise or lack of privacy. All residential programs serve victims with physical disabilities, although ease of access varies and none of the programs feels competent to serve developmentally delayed victims of abuse. Transportation barriers and minimally staffed outreach offices often limit the services afforded to residents of isolated and outlying communities. Domestic violence programs also noted that most community agencies must rely on third-party payments, which hampers their ability to serve victims who do not have Medicaid or other insurance coverage.

Additionally, the Rural Outreach Project cited the following concerns about meeting the needs of domestic violence victims who are elderly, people of color, and/or have a mental or physical disability.

1. Victims may not report abuse because:
  - they are fearful, embarrassed, vulnerable, fragile and are perceived as less valuable by society;
  - they do not identify with the traditional language and message used to describe domestic violence, and therefore, may not identify emotionally and/or physically abusive behavior in their lives as domestic violence;
  - they are not viewed as credible by many people who are in a position to help;
  - they mistrust the mainstream system organized to assist domestic violence victims, including the legal system and domestic violence providers;
  - they feel professionals do not understand the consequences of reporting/not reporting domestic violence for people who already feel disenfranchised;
  - they are more likely to be blamed for the abuse (because of stereotypical attitudes by professionals and the public) than domestic violence victims who do not face the additional barriers of race/age/disability.
2. Victims are not aware of available services, or services are inadequate, inaccessible, or poorly publicized.



3. Victims do not see people like themselves working as domestic violence service providers.

Most licensed programs lack the resources to respond effectively to the growing demands. Funding for domestic violence services has increased steadily over the past ten years, but the need for services has increased at a greater rate. Compared to surrounding states, West Virginia's state allocation for domestic violence prevention and intervention services is modest. (See Appendix E for SFY 1999 allocations to domestic violence programs in neighboring states.)

*Due to the increased demand and because victims require access to a wide variety of needed, quality services from licensed domestic violence programs as well as other community agencies, the Family Violence Coordinating Council recommends that:*

- 1.1 The Executive and Legislative branches identify additional funding for existing licensed domestic violence programs to help them meet the increased demand;
- 1.2 The Legislature assure that funding for domestic violence programs is distributed only to those programs that comply with West Virginia licensing standards in order to assure quality and safety;
- 1.3 The Family Protection Services Board work in partnership with the West Virginia Coalition Against Domestic Violence to develop a plan for expansion and development of services, including:
  - a. **outreach offices** in all counties to ensure that there is at least one person in every county who is informed about domestic violence and available resources and can serve as an advocate for victims;
  - b. **transitional housing** to provide victims with the housing and supports they need to become sufficiently self-reliant to leave their abuser;
  - c. **legal assistance** for adult and child victims to assure that victims of domestic violence living in poverty receive access to the same legal services provided to the batterer;
  - d. **batterer intervention programs** to help hold batterers accountable for their behavior, educate them about alternatives and begin preventing further abuse;
  - e. **monitored visitation centers** to provide a safe place for the exchange of children;

All services should be inclusive of and sensitive to the needs of elderly victims, victims of color and victims with disabilities.
- 1.4 Licensed domestic violence programs work in partnership with Family Resource Networks (FRNs), the local senior center, communities of color, the local behavioral health center, healthcare providers, and other organizations to identify and publish resources available to domestic violence victims;
- 1.5 Licensed domestic violence programs work in partnership with STOP Teams, the FRNs, and/or other community planning groups where appropriate, to convene agencies,

community representatives and interested victims to: identify service gaps; plan cross-agency training to improve awareness and expertise across agencies; and improve coordination of and access to existing services necessary to assure victim safety and self-sufficiency;

- 1.6 The West Virginia Coalition Against Domestic Violence work with diverse groups (identified by race, ethnicity, disability, age, class, gender, sexual identity) to respond to domestic violence in their communities to increase the level of comfort and trust, including the recruitment and hiring of underserved populations;
- 1.7 The Department of Health and Human Resources and the Bureau of Senior Services:
  - a. work in partnership with the West Virginia Coalition Against Domestic Violence and law enforcement agencies to expand DHHR's annual domestic violence training for Adult Protective Services staff to home health contract staff working through the local senior centers; and to develop statewide policy and local protocols to guide intervention in domestic violence cases with elderly victims;
  - b. work in partnership with the West Virginia Coalition Against Domestic Violence develop a plan for effective provision and funding of programs, including residential services, for elder victims of domestic violence;
- 1.8 Department of Health and Human Resources Office of Behavioral Health Services work in partnership with licensed behavioral healthcare providers and the West Virginia Coalition Against Domestic Violence to:
  - a. expand DHHR's annual training about domestic violence dynamics to include behavioral health interventions and provide that training to state hospitals, licensed behavioral healthcare providers and domestic violence programs;
  - b. develop statewide policy and protocols to guide reporting of domestic violence and delivery of services to domestic violence victims who have mental illness, addiction disorders and/or developmental disabilities.

## ***Issue 2: Child Victims of Domestic and Family Violence***

The Family Violence Coordinating Council Child Victim Services survey results<sup>3</sup> indicate:

- *Capacity of licensed domestic violence programs.* Services for child victims of domestic violence are clustered in the thirteen counties where shelters are located, due to the availability of staff and resources. Of the 3,393 residential program residents in FY 97-98, 1,747 were children. On the other hand, of the 22,246 persons receiving non-residential services, only 2,825 were children.

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<sup>3</sup> See Appendices C and D for the Children's Services Survey and a more detailed analysis of the results.

- *Victim/witnesses.* Domestic violence program staff report that anywhere from one-fourth to three-fourths of the children they serve are direct victims of child abuse or neglect, in addition to witnessing violence between the adults in the household.
- *Service Expansion Priorities.* The five services for child victims identified most frequently by the licensed programs as in need of expansion include:
  1. Support groups and planned programming for children living in domestic violence residential programs
  2. Monitored visitation centers
  3. Advocacy for children to assure they receive services that meet their needs
  4. Addiction and mental health services for children
  5. Legal representation

*To assure that child who live in homes where there is domestic violence receive services to address their needs, **the Family Violence Coordinating Council recommends that:***

- 2.1 The Family Protection Services Board work in partnership with the West Virginia Coalition Against Domestic Violence to develop a plan for expansion and development of services for child victims, including:
  - a. **Support groups and planned programming** for children living in domestic violence residential programs to make their stay therapeutic as well as safe;
  - b. **Monitored visitation centers** to provide a safe place for the exchange of children;
  - c. **Advocacy** for children to assure they receive services that meet their needs;
  - d. **Addiction and mental health services** for children to address the problems that frequently accompany living in a violent home; and
  - e. **Legal representation** to assure that their legal interests are not ignored or compromised.
- 2.2 The Legislature in cooperation with the Executive Branch allocate additional funding for licensed domestic violence programs to implement an assessment protocol for all children served by the programs to identify their strengths and needs;
- 2.3 The Family Protection Services Board include children's programs and routine assessment and identification of children's needs as part of the domestic violence licensing standards;

*Because a significant proportion of children who witness violence between adults are also themselves victims of physical abuse and/or sexual abuse and/or neglect, **the Family Violence Coordinating Council recommends that:***

- 2.4 The Department of Health and Human Resources work in partnership with the West Virginia Coalition Against Domestic Violence, the West Virginia Child Care Association and the West Virginia Behavioral Healthcare Providers Association to expand its annual

training for Child Protective Services staff to include youth services staff, foster and adoptive parents, child care staff, and children's mental health/addictions staff;

- 2.5 Child Protective Service investigations include regular screening for domestic violence, determination of the safety needs of the mother as well as the child(ren) and appropriate referral for domestic violence services if domestic violence is identified;
- 2.6 The Department of Health and Human Resources Bureau for Child and Family Services and DHHR district offices work in partnership with the West Virginia Coalition Against Domestic Violence to develop statewide policy and local protocols to respond to the needs of families and children where both domestic violence and child abuse and neglect are occurring.

## The Legal System

“Warrants were issued three weeks ago for the arrest of a Huntington man who was charged with the fatal shooting of his estranged wife this week, police say. Leon Aliff, 56, of Huntington, was charged this week with aggravated murder in the death of Linda Aliff at her home in Chesapeake, Ohio.

Two active warrants for Leon Aliff’s arrest were signed in Cabell County on September 11 and 14 for a domestic violence petition violation and a domestic battery charge. The warrants charge that Aliff intentionally grabbed his wife and knocked her head against a brick wall.... One of the cases was set for trial next week. Another woman, whose relationship with Aliff is unknown, filed a family violence temporary protective order against him March 2.

On Tuesday, Aliff allegedly broke through Mrs. Aliff’s door with two handguns. The couple argued and the fight ended with gunfire, police said.

Lawrence County, Ohio Sheriff’s Deputy Jim Cochran said his department was unaware of the warrants until Aliff was arrested Tuesday. ‘There are probably 5,000 unserved warrants in the Tri-State. I don’t see how better communication between states and counties would have helped in this situation,’ Cochran said.

Although states have been required since 1994 to honor protection orders from other states, it often takes time for local courts and police to catch up with new laws, said Virginia Daniels, executive director of Branches Domestic Violence Shelter in Huntington. She said there was no way of knowing whether serving the warrants would have prevented the death of Linda Aliff. ‘There are some people who I’m not sure you can stop.’

The couple’s daughter said Wednesday she was not surprised by her mother’s death. ‘I don’t’ want people to think that these are isolated incidents; they are not,’ angel Aliff said. ‘I don’t remember a time when Mom was not afraid of him. He was always violent. He was always angry. I moved to Columbus because I knew that if he killed her and I was in the house, he would kill me, too,’ Aliff said....”

From the *Charleston Gazette*, October 2, 1998



# The Legal System

*“Abusers are getting to magistrates and domestic violence programs first, requesting services, creating conflicts of interest. Magistrates have to file a [domestic violence] petition on behalf of whomever comes in first. Sometimes it’s the perpetrator, but it has to be processed anyway.”*

*-Magistrate (Martinsburg Public Forum, 9-20-98)*

*“Marshall County led the state in domestic violence homicides in 1995, even with high employment and per capita income....Now an advocate is in the sheriff’s office with a deputy who has a full-time job enforcing protection orders. This improves prosecution because victims feel better about going to court. It has also reduced our homicide rate.”*

*-Deputy (Morgantown Public Forum, 10-1-98)*

*“Too many courts have jurisdiction in family violence. I went to magistrate court for a protection order. A family law master is addressing the child custody issues. Circuit court handles protection order violations and criminal issues. No single court has a total picture of what child victims go through. Their dad still has unsupervised visitation rights, and I am being held in contempt because I won’t let them see him.”*

*-Survivor (Barboursville Public Forum, 10-13-98)*

## OVERVIEW

Since the enactment in 1979 of the Prevention of Domestic Violence Act<sup>1</sup> (hereinafter Act ) in West Virginia, the response to cases of domestic violence by the courts, law enforcement, prosecutors and others involved with the various components of the legal system have shown steady improvement. Nonetheless, the complexities of the legal system can be bewildering to anyone approaching it for the first time, let alone for someone who has been traumatized by domestic violence. Therefore, the need for a coordinated response to domestic violence by those involved in the legal system is critical.

A victim of domestic violence may become involved in civil and/or criminal proceedings in the legal system. Petitions for domestic violence protective orders are civil matters under West Virginia law, as is the enforcement of certain violations of a protective order. The Act also identifies certain violations of a protective order as misdemeanor offenses,<sup>2</sup> which are considered criminal offenses. These criminal violations include abuse of anyone protected by the order and the presence of the offender in a location proscribed (specified as “off limits”) by the order.<sup>3</sup>

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<sup>1</sup> West Virginia Code 48-2A-1 *et seq.*

<sup>2</sup> West Virginia Code 48-2A-10a - 10d.

<sup>3</sup> Appendices F through I detail the processes for filing domestic violence petitions and for enforcing protective orders by filing civil contempt petitions or criminal complaints.

Additionally, law enforcement officers may file criminal complaints charging other offenses such as domestic assault,<sup>4</sup> domestic battery,<sup>5</sup> stalking,<sup>6</sup> malicious assault,<sup>7</sup> sexual assault of a spouse,<sup>8</sup> child abuse or neglect,<sup>9</sup> etc., based on the facts of each case.

### **Civil Provisions of the Act**

A victim of domestic violence can file a petition for a family protection order (FPO) in either a circuit or magistrate court.<sup>10</sup> Since magistrates are required to be available at all times to accept domestic violence petitions, the vast majority of petitions are filed in magistrate court. Additionally, people involved in divorce actions may request that any orders involved in the divorce contain protective relief based on incidents of domestic violence.<sup>11</sup>

The Act provides that any protective order contain the mandatory relief of directing the respondent to refrain from abusing, harassing, stalking, threatening, intimidating or engaging in conduct that places those named as protected parties in the order in reasonable fear of bodily injury.<sup>12</sup> Discretionary relief may also be ordered and can include, as examples, possession of the home, custody of children, visitation of children, and child support.<sup>13</sup> Protective orders, other than divorce orders containing protective provisions, are in effect for either 90 or 180 days.

If any provision of a protective order is violated while the order is in effect, the petitioner may file a petition for civil contempt. If the violation is found to be a contemptuous action, the court will issue an order again directing the respondent to comply with that provision of the protective order which was violated and requiring the respondent to post a bond as assurance for complying with this provision. If there is another violation of this provision, the petitioner may file a motion to forfeit the bond. If the motion is granted, the bond is forfeited to the State.<sup>14</sup> If a respondent is indigent, the court may not force the respondent to post bond.

Since parties in civil cases are responsible for obtaining a lawyer on their own, both petitioners and respondents frequently represent themselves (*pro se*) in the civil court proceedings taking place in magistrate court. If attorneys are involved at this stage, they most often are representing the respondent and the petitioner is proceeding *pro se*.

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<sup>4</sup> West Virginia Code 61-2-28(b).

<sup>5</sup> West Virginia Code 61-2-28(a).

<sup>6</sup> West Virginia Code 61-2-9a.

<sup>7</sup> West Virginia Code 61-2-9(a).

<sup>8</sup> West Virginia Code 61-8B-6.

<sup>9</sup> West Virginia Code 61-8D-3 or 4.

<sup>10</sup> West Virginia Code 48-2A-6, 48-2-3(a).

<sup>11</sup> West Virginia Code 48-2-13, 48-2-15.

<sup>12</sup> See note 10.

<sup>13</sup> *Ibid.*

<sup>14</sup> See generally, West Virginia Code 48-2A-10(a).



## **Criminal Provisions of the Act**

If a respondent is present at a location prohibited by the order or commits an abusive act against a person protected by the order, a criminal complaint for the misdemeanor violation of the protective order may be filed by either the petitioner named in the protective order or a law enforcement officer.<sup>15</sup> Based upon a provision of the Act enacted in 1994, law enforcement officers may file a criminal complaint without having witnessed the misdemeanor offense (commonly called a probable cause arrest)<sup>16</sup>. Misdemeanor offenses may be heard either in circuit or magistrate court in the county where the offense occurred.

Once the criminal charge is filed, the prosecutor represents the state. Typically, the interests of the state and the victim are consistent, although the prosecutor must represent the state in cases where their interests differ (e.g., the petitioner decides not to testify). The defendant is constitutionally entitled to legal representation. If a criminal defendant is indigent, an attorney is appointed if the defendant desires one. Otherwise the defendant is responsible for retaining an attorney or proceeding *pro se*.

## **The People and the Systems Responsible for Carrying Out the Provisions of the Act**

To have a fuller appreciation of what a coordinated legal system response to domestic violence entails, one needs to examine the entities which may be called upon to respond to a domestic violence incident. A victim of domestic violence may seek assistance:

- from a local domestic violence shelter or advocates program;
- by calling the 911 operator or police dispatcher;
- by contacting the local prosecutor or law enforcement agency;
- by walking into the local magistrate court; or
- by mentioning domestic violence acts during the course of divorce proceeding.

Given the diverse points of entry to the legal system that can be chosen by a victim of domestic violence, it is necessary for all of the entities to understand the roles, capabilities and needs of the other entities.

## **FINDINGS AND RECOMMENDATIONS**

Examining the current structures and law, considering the testimony from the public forums conducted by the Family Violence Coordinating Council, reviewing the *Commission on the Future of the West Virginia Judicial System Report* initiated by the West Virginia Supreme Court, and taking into account the views of representatives from the various components of the legal system, the Family Violence Coordinating Council makes the following findings and recommendations.

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<sup>15</sup> See note 2.

<sup>16</sup> West Virginia Code 48-2A-10c.

## ***Issue 1: Communication and Coordination***

The experience of going to a court for the first time can be a confusing and intimidating process for anyone, but it is especially traumatic for individuals or families in crisis. A victim of domestic violence may be involved in more than one court, based on her circumstances. For example, she may file a domestic violence petition for protection in magistrate court, be involved in a divorce proceeding before a family law master and be subject to a child abuse case brought against her by the Department of Health and Human Resources before a circuit judge. To further complicate her situation, each court well may be unaware that another court simultaneously is dealing with the problems in any given family. As the *Commission on the Future of the West Virginia Judicial System Report* concludes, this lack of integration and consolidation does not serve the best interest of the families, interferes with the ability of the system to provide a quality resolution and does not make efficient use of judicial resources.<sup>17</sup>

The communication problems among courts exist not only in the process by which paper records are maintained but also in how the electronic records of the courts have developed. For example, magistrate courts currently use a uniform computer system. However, the systems are not connected so there is no easy way to check with a neighboring county to see if a protective order has been issued. Circuit clerks do not utilize a uniform computer system, so linkage between courts in a jurisdiction or between jurisdictions is not possible.

These electronic communication problems affect all who are responsible for responding to domestic violence calls. For example, dispatchers need a readily available and reliable source of information regarding protective orders so that they can provide necessary information to the law enforcement officer going to the scene.

The Act provides for the establishment of a computerized statewide registry of protective orders to be developed by the State Police. Data for the registry necessarily need to be obtained from the courts. The Supreme Court is developing a computer program designed to track domestic violence cases in magistrate courts that will allow for electronic transfer of protective order data to the State Police. However, data regarding protective orders issued by circuit judges (either due to direct filing of petitions in the circuit court or as a result of an appeal from magistrate court) and family law masters (as a portion of temporary and final divorce orders) will not be available to incorporate in the registry.

Yet another communication problem involves timely and accurate dissemination of information regarding changes in the law to all those charged with responding to domestic violence incidents. The absence of such a communication system may prevent appropriate intervention and affect the quality of assistance provided to the victim. This communication problem particularly affects sheriffs' departments and municipal police forces since there is no central communications system established for them in the state.

*To address these communications issues, the Family Violence Coordinating Council*

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<sup>17</sup> *Commission on the Future of the West Virginia Judicial System Final Report*, 1998, p. 34.

*recommends that:*

- 1.1 The Governor, Legislature and Supreme Court continue to work toward the development of a family court.
- 1.2 The Supreme Court and State Police continue to develop a statewide electronic registry of family protection orders issued by any court in the state for access by the courts, law enforcement and prosecutors.
- 1.3 The Family Violence Coordinating Council coordinate development of a plan which details how uniform information about changes in the law involving domestic violence cases is distributed to courts, prosecutors, law enforcement agencies (including 911 operators and dispatchers) and domestic violence programs in the state.

***Issue 2: Education/Training***

The Act provides that continuing education courses for magistrates, magistrate assistants, family law masters and probation officers include the topic of domestic violence. Magistrates, magistrate assistants and magistrate clerks have received such training as part of each regularly scheduled training offered by the Supreme Court since West Virginia Code 48-2A-13 was enacted.

Training in other professions in the legal system is less consistent.

- Training is a component of STOP Violence Against Women Act grant applications, but the number of people attending the training and the quality and content of the training are not monitored.
- The State Police Academy has an excellent domestic violence segment in their curriculum for law enforcement officers but the Academy is limited in its capacity to accommodate the training needs of all local law enforcement officers in a timely or individualized manner.
- There is no statutory requirement that prosecutors receive training on the law or dynamics of domestic violence.
- Lawyers who represent victims are not required to receive training on the law or dynamics of domestic violence.
- Dispatchers (including 911 operators) are not required to receive training regarding domestic violence and may unknowingly be inappropriately dealing with victims needing assistance and impeding the collection of essential evidence for the prosecution.

- Advocates are not required to be trained in domestic violence law and what they are permitted to do in the courtroom. The former may lead to misinformation being given to the victim and the latter may lead to charges of practicing law without a license.

*Due to the foregoing gaps in training, the Family Violence Coordinating Council recommends that:*

- 2.1 The Family Violence Coordinating Council coordinate development of an on-going training curriculum on legal issues based on input from the various professions involved in responding to domestic violence. To assure that the training content is consistent and of high quality, the Council also should identify a process by which the curriculum will be delivered to each discipline.
- 2.2 The Division of Criminal Justice Services require that recipients of grants to provide domestic violence services utilize the appropriate curriculum developed through the Family Violence Coordinating Council.
- 2.3 The Office of Emergency Services and State Enhanced 911 Council work in partnership with the West Virginia Coalition Against Domestic Violence to develop a protocol for 911 officers and dispatchers to follow when responding to calls involving domestic violence which addresses appropriate response to domestic violence victims and a standard method for preserving tapes and records of the calls as evidence.
- 2.4 The West Virginia Coalition Against Domestic Violence in partnership with the West Virginia Supreme Court Administrative Office and the West Virginia State Bar develop an outline of what advocates may and may not do during the course of domestic violence petition/protective order court proceedings. This outline would then be used as the basis for training court personnel and advocates regarding the same.

### ***Issue 3: Prevention of Domestic Violence Act***

In its passage of the Act, the West Virginia Legislature has demonstrated recognition of the increasing problem of domestic violence by enacting laws that address the needs of victims and provide a means by which the victim may break the cycle of domestic violence. In many respects the foresightedness of the Legislature has placed West Virginia ahead of many other states in the country. Despite the strength of our domestic violence laws, application of the amendments made to the law in 1998 may need to be revisited.

The discretionary relief that may be included in protective orders under the Act includes two provisions regarding firearms. One provision allows the court to order the respondent to not possess or use any firearm or other weapon while the protective order is in effect.<sup>18</sup> If this relief is granted, it is subject to enforcement through the state courts. The second provision allows the court to inform the respondent that it is a violation of federal law to use or possess a firearm while

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<sup>18</sup> West Virginia Code 48-2A-6(b)(10).

a protective order is in effect.<sup>19</sup> A respondent who uses or possesses a firearm would be subject to federal prosecution, whether or not this relief is granted in the order. These provisions have created confusion. If a judicial officer does not initial either provision on the standard forms supplied by the Supreme Court, the respondent may believe that he is permitted to carry a firearm.

Enforcement of protective orders by civil contempt under the statute has not been successful in curtailing violations of orders. This is especially true when the respondent is indigent since the court has no authority to force someone without resources to post bond.

Magistrates do not have the statutory authority, professional background, or training to handle the complexity of cases involving child custody, visitation, child support, maintenance payments and the like. These matters should be handled by the circuit court.

*In light of these problems, the Family Violence Coordinating Council recommends that:*

- 3.1 The Legislature amend the Prevention of Domestic Violence Act to:
  - a. eliminate firearm possession or use from the discretionary relief which may be granted in a protective order and instead require that a notice of the provisions of the federal law governing use and possession of a firearm and ammunition be placed on all protective orders issued; and
  - b. eliminate enforcement of protective orders by civil contempt proceedings and establish that any violation of a protective order is a misdemeanor, with punishment scaled from fines to the current penalties, based on the type of violation for which the defendant is convicted.
- 3.2 The Legislature retain the provision in the Prevention of Domestic Violence Act enacted in 1999 requiring that the full hearings on domestic violence petitions be held by the circuit court.

#### ***Issue 4: Legal Representation***

Protective order petitioners generally act without benefit of a lawyer. If attorneys are involved in the civil aspects of a domestic violence case, they most frequently are representing the respondent while the petitioner is proceeding *pro se* (i.e., she has no legal representation). In such a situation, the respondent's ability to retain an attorney feeds the cycle of domestic violence by sending the message to the petitioner that he is in control.

Attorneys representing clients involved in domestic violence cases are not always as familiar with the domestic violence laws as they are versed in domestic relations laws.

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<sup>19</sup> West Virginia Code 48-2A-6(b)(11).

*To remedy these concerns, the Family Violence Coordinating Council recommends that:*

- 4.1 The Governor propose a system for providing legal services at the proceedings involving issuance of a protective order and for any civil enforcement of an order.
- 4.2 The West Virginia State Bar establish a continuing legal education class each year which focuses on the dynamics of domestic violence and the domestic violence laws and carries a minimum of three hours CLE credit.
- 4.3 The West Virginia State Bar propose to the West Virginia Supreme Court an amendment to the Rules of Professional Conduct to require that any lawyer regularly dealing with cases involving domestic violence attend CLE classes and obtain a minimum of 3 hours credit on the subject of domestic violence each reporting period.
- 4.4 The West Virginia State Bar propose to the West Virginia Supreme Court an amendment to the Rules of Professional Conduct that clearly prohibits lawyers representing clients in domestic violence cases from manipulating court processes in order to gain advantage in a related divorce or other proceeding. The barred practices need to include, but not be limited to:
  - a. Drafting, proposing or otherwise encouraging the issuance of a single protective order which gives relief to both parties;
  - b. Providing legal advice to both parties;
  - c. Proposing or encouraging the use of diversionary agreements to defer prosecution of offenses involving acts of domestic violence.

## Chapter 4

### Healthcare Response

Sometime during the morning of November 26, 1994, Christopher Bailey beat his wife, Sonya, into unconsciousness and locked her in the trunk of her car.

According to court testimony, Bailey claimed to have been suffering from an alcoholic blackout and never meant to hurt his wife. Bailey testified that he was not sure if he had inflicted his wife's injuries. He said he could only remember coming out of his blackout and finding his wife's bloody body. At the time he was driving down Rt. 119 toward Kentucky.

Bailey said he was afraid to seek medical care for his wife for fear of being questioned. Instead, he attempted to care for her himself with hydrogen peroxide and a washcloth. With Sonya Bailey locked in the trunk, Bailey drove back and forth between West Virginia and Kentucky for five days, spending nights in motels and failing to seek medical treatment for his wife. Finally, on December 1, he brought Sonya to an emergency room in Kentucky, realizing she was beyond his efforts to help her.

Upon arrival at the hospital, Mrs. Bailey's condition was desperate, as she was suffering from both external and internal injuries. In addition to lacerations and bruises, she had three forehead wounds that were still bleeding when the police photographer arrived at the hospital. She had ligature bruises on her wrists and ankles from being bound. She suffered severe deprivation of oxygen to her brain resulting from blood loss, and experienced dehydration-induced renal failure due to lack of food and water for at least three or four days.

Many of Mrs. Bailey's injuries are permanent. Trial testimony by her treating physician reveals that she is unable to talk and has only minimal comprehension of what is said to her. She is fed by a gastrointestinal feeding tube, and has little voluntary movement. The doctor testified that with years of rehabilitation, Mrs. Bailey might learn to feed herself and to talk.

Christopher Bailey was convicted on charges of federal kidnapping and interstate domestic violence under the federal Violence Against Women Act. On September 1, 1995, he was sentenced to life imprisonment on the kidnapping charge and twenty years on the domestic violence offense.

-Excerpted from transcript of the United State Court of Appeals for the Fourth Circuit, No. 95-5727, Untied States of America v. Christopher J. Bailey





# Healthcare Response

*“Not all physicians and departments in the hospital are equipped to interview and assess domestic violence victims. We miss opportunities to help.”*

*- Healthcare provider (Martinsburg Public Forum, 9-20-98)*

*“More people are coming in for help, even though they may not disclose until the third or fourth trip to the Emergency Room. They talk to the ER staff about plans.”*

*- Healthcare provider (Martinsburg Public Forum, 9-20-98)*

## OVERVIEW

Domestic violence is a public health problem of epidemic proportions which results in death, serious injury, and chronic medical and mental health issues for victims, perpetrators, and others. With close to 4 million women reported as physically abused each year, domestic violence is the leading cause of injury to women in the United States.<sup>1</sup> One study conducted in an emergency department found that 30% of women presenting with injuries were identified as having injuries caused by battering.<sup>2</sup> The level of injury may be severe: of 218 women presenting at an urban emergency department with injuries due to domestic violence, 28% required admission to the hospital from injuries, and 13% required major medical treatment. Forty percent (40%) had previously required medical care for abuse.<sup>3</sup> Batterings may start or intensify when a woman is pregnant. Studies indicate that anywhere from 8% to 26% of pregnant women report at least one violent episode during pregnancy.<sup>4 5 6</sup> As alarming as these statistics are, U.S. Department of Justice data indicate that only 1 out of 5 injured female victims of intimate partner violence seeks professional medical treatment.<sup>7</sup>

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<sup>1</sup> The Commonwealth Fund, *First Comprehensive National Health Survey of American Women Finds Them at Significant Risk*. News Release. The Commonwealth Fund, July 14, 1993.

<sup>2</sup> McLeer, S. and Anwar, R. A study of battered women presenting in an emergency department. *American Journal of Public Health*, 79, 1989.

<sup>3</sup> Berrios, D.C., and Grady, D. Domestic violence: Risk factors and outcomes. *Western Journal of Medicine*, 155, 1991.

<sup>4</sup> Helton, A.S., McFarlane, M.S. and Anderson, E.T. Battered and pregnant: A prevalence study. *American Journal of Public Health*, 77(10), 1987.

<sup>5</sup> McFarlane, J., Parker, B., Soeken, K., and Bullock, L. Assessing for abuse during pregnancy: Severity and frequency of injuries and associated entry into prenatal care. *Journal of the American Medical Association*, 267(23), 1992.

<sup>6</sup> Helton, A., McFarlane, J. and Anderson, E. Prevention of battering during pregnancy: Focus on behavioral change. *Public Health Nursing*, 4(3), 1987.

<sup>7</sup> Violence by Intimates: Analysis of data on crimes by current or former spouses, boyfriends, and girlfriends. Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, March 1998.

Violence is emotionally and psychologically traumatizing to victims. Even a single act of violence by a family member may cause long-lasting trauma as well as immediate harm to a victim or an observer. Repeated abuse and severe violence causes significant psychological distress and may result in post-traumatic stress disorder; depression; or dissociative, anxiety, or mood disorders. Abuse may also lead to suicidal feelings, suicide attempts, and substance abuse.<sup>8</sup>

Even if physical battering is not yet part of an intimate relationship, the abuser's controlling techniques of belittling, insults, threats, harassment, and isolation can have chronic and debilitating effects on the adult victim. Additionally, children who live in violent homes often demonstrate symptoms of post-traumatic stress disorder, are insecure about attachments to adult caretakers, may begin to abuse drugs and/or alcohol, may be rebellious or overly withdrawn, and are likely to become involved in a violent peer relationship themselves.

The ultimate health impact of domestic violence is death. Domestic homicide is often the culmination of an escalating history of abuse. Eighty-eight percent (88%) of victims of domestic violence fatalities had a documented history of physical abuse.<sup>9</sup> Nearly thirty percent (30%) of all murdered women in this country are killed by a current or former husband or boyfriend.<sup>10</sup> Although the media often sensationalize instances where women kill their partners, typically when the woman is the perpetrator of a domestic homicide, the abuser was killed during an assaultive incident in which the victim was a woman.<sup>11</sup>

Healthcare providers are often the first professionals to encounter victims, particularly if a woman is afraid to report her partner's criminal activity or does not recognize her partner's actions as criminal. In addition, the confidential relationship between a health professional and patient creates a potentially safe haven for women to disclose the abuse and an opportunity for the provider to identify, counsel and refer them to community resources. One study found that over a third of battered women will speak to a physician or nurse about their abuse if a direct inquiry is made.<sup>12</sup> However, if a physician does not connect a woman's symptoms to the abuse she is experiencing and if a nurse does not know how to ask a woman if she is being battered or what to say if she responds, "yes," the cycle of violence may continue unabated.

The critical role of health professionals in responding to domestic violence is acknowledged by the American Medical Association, the Centers for Disease Control, and a variety of national professional organizations which have prepared educational

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<sup>8</sup> *Violence and the Family*. American Psychological Association Research Agenda for Psychosocial and Behavioral Factors in Women's Health, American Psychological Association, 1996.

<sup>9</sup> *Florida Governor's Task Force on Domestic and Sexual Violence, Florida Mortality Review Project* (1997), pp.46-48, tables 14-21.

<sup>10</sup> National Crime Victimization Survey, *Violence Against Women: Estimates from the Redesigned Survey*, NCJ-154348, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 1995.

<sup>11</sup> Browne, A. *When Battered Women Kill*, (get publisher), 1997, pp. 135-137.

<sup>12</sup> McFarlane, J. Christoffel, K., Bateman, L., Miller, V. and Bullock, L. (1991) Assessing for abuse: Self-report versus nurse interview. *Public Health Nursing*, Vol. 8, 1991.

materials for their members and the public they serve.<sup>13</sup> The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) now requires accredited healthcare facilities to have in place policies, procedures and training to guide staff in identifying and assessing victims of domestic violence. The challenge for the healthcare system, including mental health professionals, is to accept its responsibility and assure that providers are fully prepared to recognize domestic violence and offer assistance.

## **FINDINGS AND RECOMMENDATIONS**

### **Issue 1: Data/Identification of Domestic Violence as a Healthcare Concern**

Although it is difficult to determine the number of injured women who seek medical treatment because there is no standard coding system for domestic battery among healthcare providers, research indicates that many of our healthcare providers do not view domestic violence as a serious health concern. In March 1997, the West Virginia Coalition Against Domestic Violence Health Partnership and WVU Center for Rural Emergency Medicine surveyed perceptions and practices of rural health care providers related to women at risk for intimate partner violence. According to their report, *Domestic Violence: Health Care Providers' Perceptions and Responses From Female Patients in Primary Care Settings*, only twenty-two percent (22%) of responding physicians and other healthcare providers indicated that they routinely ask female patients if they have been physically hurt or threatened during the past 12 months. Forty-seven percent (47%) of respondents felt that they were adequately identifying victims of abuse, yet approximately one third reported that they were not sure how to screen for abuse. In addition to health professionals, the survey asked female patients ages 18 and older whether they had ever been physically hurt by a partner or family member more than once (19%) or emotionally abused or threatened (22%). Nine percent (9%) of those women reported having been physically hurt within the past six months.

There is also limited assessment and understanding of the dynamics and statistics of domestic violence-related deaths. In February 1999 the Domestic Violence Fatality Committee, chaired by the Chief Medical Examiner, began meeting to address the issue of domestic violence fatalities. Currently, the State Police collects statistics about domestic violence homicides and the Office of the Chief Medical Examiner investigates deaths due to unnatural causes, including domestic violence-related homicides. However, the two offices use different definitions and methods of determining a domestic violence-related death. As there is no standard for collecting information, the committee has developed a tool to collect and analyze all existing data and establish a baseline for measuring trends in domestic violence-related fatalities. This group plans to implement a process for reviewing deaths occurring in West Virginia resulting from intimate partner violence, and will determine whether a separate team devoted specifically to domestic-violence related fatalities is a necessity and a valuable addition to the Department of

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<sup>13</sup> For example, the American Academy of Family Physicians, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Nurses Association, the American Physical Therapy Association, and the American Psychological Association, Harvard Pilgrim Health Care, Blue Shield of California, Health Partners, United Health Care of New England.

Health and Human Resources' Child Fatality Review Team and the Supreme Court's Fatality Review Teams. While many of the Court's cases are domestic violence-related, their teams can only review deaths when one of the parties has been involved in a court proceeding. The Child Fatality Review Team does not review deaths of adults. The information gathered from all the Review Team efforts will be used to inform policy makers and the public about the dynamics of domestic violence fatality and the effectiveness of community prevention and intervention efforts.

*To address concerns about data collection and victim identification, the Family Violence Coordinating Council recommends that:*

- 1.1 The Department of Health and Human Resources Bureau for Public Health adopt the statutory definition of domestic violence for use in collection of data regarding domestic violence.
- 1.2 The Governor request the state agency mandated to collect healthcare data<sup>14</sup> develop a statewide process to collect healthcare-related domestic violence statistics and develop a statewide data registry, using the statutory definition of domestic violence.
- 1.3 Healthcare providers routinely screen the following for a history of domestic violence: a) all adult female patients and b) male patients who present with indicators of domestic violence. (See Appendix J for Universal Screening Tool and Indicators for Men.)
- 1.4 The Office of the Chief Medical Examiner continue to convene an interdisciplinary team to:
  - a. establish a baseline for measuring trends in domestic violence-related fatalities;
  - b. identify and review deaths occurring in West Virginia related to domestic violence (using the statutory definition);
  - c. use the knowledge to inform policy makers and the public about domestic fatality dynamics and the effectiveness of community prevention and intervention efforts; and
  - d. report to the Office of the Chief Medical Examiner, after twelve months of data collection and analysis, about the need for a Domestic Violence Fatality Review Team in addition to the Child Fatality Review Team and Supreme Court Fatality Review Teams.

***Issue 2: Professional Education/Training***

Health professionals' lack of awareness and training about domestic violence was a common concern voiced during the Family Violence Coordinating Council's public hearings. A survey of the state's health education programs completed in January 1999

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<sup>14</sup> West Virginia Code §16-29B-6.

by the Family Violence Coordinating Council confirmed the perception that healthcare providers are not as well-informed as they could be regarding the identification, assessment and response to victims. Among physicians, nurses, physician assistants, emergency medical technicians, and paramedics:

1. students receive little information about domestic or family violence during preparatory courses, depending on the profession and the school (reports range from 0 – 8 hours of lecture);
2. medical and nursing students receive additional information on the topic only during patient rounds if the problem presents or during clinical rotations if they go to a domestic violence shelter in the community;
3. only the national certification exam for Emergency Medicine includes a question about domestic or family violence;
4. continuing education requirements are not specific to domestic or family violence.

The West Virginia Healthcare Partnership Initiative and the Family Violence Coordinating Council's Health Work Group have met with representatives of the state's three medical schools, the physician assistant program, and four nursing programs to discuss how their curricula can be strengthened to better prepare students to treat victims of domestic violence. The initial meeting revealed a lack of consistency in addressing domestic violence through curriculum and clinical training and a general lack of value placed on the topic. The group agreed on the critical need for on-going discussion.

*To strengthen health professionals' awareness about domestic violence, the Family Violence Coordinating Council recommends that:*

- 2.1 Licensure and accreditation entities require all healthcare training and educational programs in West Virginia to identify theoretical and clinical components of a curriculum addressing identification of and intervention in domestic violence situations for inclusion in their programs. Students should be prepared to understand, identify and address causes and effects of domestic violence, including definitions of violence and abuse; dynamics of domestic violence; effects and impact on victims and society; types of violence; forms of violence; resources for victims; and appropriate forms of practitioner intervention.
- 2.2 Healthcare-related professional associations work with the West Virginia Coalition Against Domestic Violence to support and facilitate development of continuing education and other professional awareness activities on the subject of domestic violence.

### ***Issue 3: Healthcare Response***

The West Virginia Hospital Association surveyed hospital Emergency Departments in October 1997 to assess the extent to which they are prepared to respond to victims of domestic violence. Results indicate that of the 48 respondents: fourteen (14) have a written screening process; twenty-nine (29) provide some type of training

about recognizing and intervening in suspected cases of domestic/family violence, although most training appears to be limited to child abuse; five (5) out of twenty-nine (29) invite the local domestic violence program to do the training; forty-five (45) report child and elder abuse to DHHR and/or law enforcement; and thirty-nine (39) report domestic violence to law enforcement and/or community resources at the request of the victim.

In an effort to strengthen the healthcare response to domestic violence, the Family Violence Prevention Fund's National Health Initiative on Domestic Violence selected West Virginia as one of ten states in the nation to receive training and technical assistance. As part of that initiative, the "West Virginia Health Partnership Initiative" sponsored a three-day training in October 1998 for fifteen hospitals and local healthcare facilities. The training was funded by a grant from the DHHR Bureau for Public Health. Five-member teams from each facility learned about the dynamics of domestic violence, routine screening and intervention, legal issues, and community resources. As a result of the training, all fifteen sites are in various stages of designing and implementing model screening and reporting protocols, and staff training to create a comprehensive response to domestic violence victims within their facilities. Other health providers, such as Montgomery General Hospital, who were not part of the initial West Virginia Health Partnership Initiative training, have also developed hospital-based domestic violence protocols and staff training. Unfortunately, at this time there are no resources available to continue and expand this important initiative.

The 1998 Domestic Violence law directs the Department of Health and Human Resources Bureau for Public Health to assess the impact of domestic and family violence on public health and write a state health plan for reducing the incidence of domestic and family violence in the state.<sup>15</sup> The Bureau is developing Healthy People 2010, a national model for state health plans. The plan's section on intentional injury prevention includes objectives about reduction of intimate partner violence, reduction of sexual victimization, and reduction of child maltreatment. The state health plan is due January 1, 2000.

*To improve the healthcare community's response to victims of domestic violence, the Family Violence Coordinating Council recommends that:*

- 3.1 All healthcare facilities currently not certified by the Joint Commission on Accreditation of Health Organizations (JCAHO) develop a written domestic violence protocol consistent with JCAHO standards.
- 3.2. In addition to victims rights cards, the Department of Health and Human Resources Bureau for Public Health in collaboration with the West Virginia Health Partnership Initiative, the West Virginia Coalition Against Domestic Violence, healthcare providers, and others, expand public awareness materials related to domestic violence and distribute them to healthcare providers statewide. Examples include pocket-sized information cards, public service announcements, posters, and billboards.

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<sup>15</sup> West Virginia Code §48-2A-4b.

### Public and Professional Education

Sixteen-year-old Jamie Cleavenger and her mother, Elaine, were stabbed to death Saturday in their home by the father of the family. Jessie, their 13-year-old son, was seriously wounded, but survived.

Robert Cleavenger, 40, died Sunday from injuries sustained after diving from the front porch of his wife's second floor apartment. He had recently been hospitalized after he attempted suicide. Cleavenger was released a week before he killed his estranged wife and daughter.

Those who live and work near the scene of Saturday's double slayings and suicide seemed to know little about the Cleavenger family, who had moved into the apartment within the past couple of weeks from Simpson, a tiny hillside community about 8 miles away. Most was known about Jamie, who attended Grafton High and was a member of the tennis team.

The stunned community has tried to make sense of the tragedy by organizing vigils in Jamie's memory and heightening awareness about domestic violence. Volunteers made 1,500 purple ribbons to be worn in memory of the victims. "Jamie was an upbeat young lady, a real bubble of smiles, said Gregory Cartwright, whose son was a fellow student and friend. At one of two candle light vigils, students read poems, shared some of Jamie's favorite songs, and prayed. A colorful banner draped in front of the school read, "Remember Jamie: Stop the Violence."

Hoping to give people the courage to escape domestic violence, a teacher attending the vigil shared his thoughts. "One of the most important decisions your teenagers will be making in the next few years is the choice of a mate for life," algebra teacher David Knotts said Tuesday night. "I want you to get real interested," he encouraged parents. "I think we've seen the results of domestic violence in a home and what it can do to a family if you make the wrong choice."

Compiled from reports in the Morgantown *Dominion Post*, October 18 - 22, 1998





# Public and Professional Education

*“The biggest barrier to victim safety is the lack of understanding by professionals about the characteristics of abuse and victimization. They still ask, “Why won’t she leave?”*

*-Prosecutor (Martinsburg Public Forum, 9-20-98)*

*“Teen dating violence education programs are being developed in some schools and communities. In addition to promoting awareness of the problem, these programs teach girls that their self-esteem does not depend on how they are viewed by boys, and teach boys that violence does not define what it means to be a man. Where children are learning that violence is not an acceptable way to solve conflicts, they should also learn that violence should never be part of their intimate relationships.”*

*- The Honorable Janet Reno, U.S Attorney General, October 23, 1997*

## OVERVIEW

The foundation for reducing and preventing domestic violence is information. Education and awareness are critical for professionals who regularly come into contact with victims and perpetrators of domestic violence. Information is also important for all West Virginians who come into contact with victims, perpetrators and their families.

If we understood that domestic violence is a serious crime that escalates in intensity over time and has long lasting effects on adult and child victims, we would become as outraged about “private” violence as we are about stranger assault. If we recognized that domestic violence crosses boundaries of race, age, economic status, religion, or any other distinction, we would believe victims and recognize perpetrators who do not fit the “stereotype” of batterers. If we acknowledged the relationship among domestic violence, child abuse, juvenile delinquency, and school violence, we would support prevention programs that intervene as early as possible when families are in trouble. In short, an informed and educated public can change the way they view domestic violence and can influence the way our institutions respond.

## FINDINGS AND RECOMMENDATIONS

According to a national survey by the Family Violence Prevention Fund, the top two reasons people give for why they do not act or intervene when they know domestic violence is happening are: 1) they are afraid; and 2) they don’t know what to do to help without putting themselves at physical risk. Data gathered from the four Family Violence Coordinating Council public forums and from the Rural Outreach Project Advisory Councils also indicate a need for heightened awareness about domestic and family violence by the general public, professionals, and victims. The picture that emerged from the comments is that domestic

violence is one of the last great secrets of society, its visibility obscured by professionals who don't know how to help and sometimes blame the victim for her "decision" to stay with an abusive partner; by victims who remain silent out of fear, frustration or ignorance of their options; and by a public that chooses to look the other way.

### **Issue 1: Professional Preparation**

The concern most frequently cited at the hearings was lack of an informed response to victims of domestic violence by the professional community, particularly for victims of color, victims with disabilities, elderly victims, and other marginalized populations. To determine the extent to which professionals in West Virginia are prepared to be part of the state's strategy to reduce violence, the Education Work Group undertook an examination of the preparation (curriculum), licensing and continuing education requirements for a range of professions (see Appendix K). The Work Group adopted a process similar to that of the Minnesota Higher Education Center Against Violence and Abuse, an organization instituted by statute in 1993. Surveys were sent to the chairpersons of all professional schools in West Virginia who train students likely to come into professional contact with domestic and family violence victims, and to entities responsible for training "first responder" professionals such as law enforcement officers and paramedics. Information was collected about educational programs and licensing requirements for:

- Clergy
- Counselors
- Emergency Medical Technicians
- Lawyers
- Law Enforcement Officers
- Nurses
- Paramedics
- Physical Therapists
- Physicians
- Physician's Assistants
- Psychologists
- Social Workers
- Teachers

In general, family violence is not covered in detail, if at all, during professional preparation, and is not a required topic for professional licensure and certification exams or continuing education. Law enforcement officers are an exception to the extent that they receive eight hours of training about domestic violence dynamics and law and eight hours about child abuse dynamics and law during their initial training at the State Police Academy. It is significant, since professional curricula are often influenced by the content of licensing examinations, that only the examination for Board Certification in Emergency Medicine regularly includes a question about family violence.

A review of continuing education courses offered to a variety of professionals during fiscal year 1999 suggest few courses dealing with domestic or family violence are offered.

(See Appendix L.) It is understandable that domestic violence victims perceive a lack of knowledge on the part of those who intervene.

In addition to professionals' lack of knowledge about domestic violence dynamics and laws, victims and advocates report that professionals are not routinely aware of one another's roles and requirements as they go about their jobs of intervening in domestic violence situations. Successful support for a victim depends on the health care professional understanding the type of evidence needed by the prosecutor, who must understand the role and value of a victim advocate, who must be clear about the distinction between her job and that of a defense lawyer. Understanding one's role within the context of the larger system of victim assistance is critical to assuring the safety and well-being of victims.

*To promote professional preparation in higher education (all in-state college, university and other preparatory programs for clergy, counselors, emergency medical technicians, lawyers, law enforcement officers, nurses, paramedics, physical therapists, physicians, physicians' assistants, psychologists, social workers, and teachers), **the Family Violence Coordinating Council recommends that:***

- 1.1 All West Virginia professional education programs develop and/or adapt family violence education curriculum into their field of study. The curriculum should:
  - a. be taught in an interdisciplinary fashion;
  - b. be taught by faculty members knowledgeable in the topic area, in conjunction with victims, advocates, offenders, and professionals from the field;
  - c. incorporate information about the behaviors and attitudes accepted in various cultural and ethnic communities related to family violence prevention and intervention;
  - d. incorporate information about the impact of domestic violence for children, elderly victims, victims of color, and victims with disabilities; and
  - e. incorporate community service efforts to learn about and address issues relating to violence and abuse.

*To promote education of professionals on an on-going basis, **the Family Violence Coordinating Council recommends that:***

- 1.2 Appropriate national and state boards that license or certify professionals who are likely to encounter family violence victims and/or perpetrators include questions about family violence on their examinations.
- 1.3 Continuing education be offered for lawyers, individual law enforcement personnel, emergency response personnel, social services workers, judges, circuit clerks, magistrates and their assistants, prosecutors, probation officers, mental hygiene commissioners, mental health practitioners, health care practitioners, educators, and clergy who are or might be involved with family violence victims or perpetrators. In-service training sessions should be designed in cooperation with personnel involved

with family violence cases and incorporate concerns of underserved populations (e.g., elderly, people of color, people with disabilities, lesbians/gays, etc.).

- 1.4 Training programs about domestic violence be reviewed annually by the sponsoring professional certification board for curriculum sufficiency and further development.
- 1.5 Cross-disciplinary training about domestic violence be promoted by:
  - a. the West Virginia Division of Personnel and state agencies developing and funding appropriate cross-agency in-service training at the state and local level for personnel who work for or are funded by their agencies;
  - b. agencies sponsoring continuing education offering CEU credits for a variety of professions;
  - c. the Family Violence Coordinating Council facilitating development of a comprehensive calendar of all continuing education opportunities regarding family violence.
- 1.6 The Family Violence Coordinating Council facilitate the development of standards to govern the content and presentation of domestic violence-related in-service training to help assure statewide consistency of training.

*To help assure a non-violent standard of professional behavior, the **Family Violence Coordinating Council recommends that:***

- 1.7 All professions have a protocol for dealing with individuals within the profession who are exhibiting violent, abusive, harassing behavior, up to and including license/certification revocation.

## **Issue 2: Awareness Among Students and School Personnel**

The lack of awareness among youth and school personnel about relationship violence also permits the cycle of family violence to continue. It is well known that relationship violence is learned behavior and that its eradication depends on: 1) teaching young people how to build healthy relationships and avoid violent ones; and 2) empowering educators to play a role in prevention and help students, colleagues and parents who are in violent relationships. The impact of domestic and family violence on children and schools is illustrated by an example shared during the Council's public hearing in Morgantown. A boy was suspended for truancy after all efforts to address his absence from school proved futile. The school and community learned only after it was too late that the boy had been staying home in an attempt to protect his mother and younger sister from their abusive husband/father. Only after the husband/father had killed his wife and daughter did the school realize the real reason for the boy's truancy.

Because of the critical role schools can play in responding to and helping to prevent such incidents, the Legislature included in the Domestic Violence Prevention Act of 1998 a

directive to the Department of Education to educate students and school personnel about domestic and family violence. The Domestic, Family and Relationship Violence Education Partnership was formed in May 1998 to develop and implement a plan for carrying out that directive, and is developing a long-range plan for a comprehensive response by schools across West Virginia.

*With regard to the public education system, the Family Violence Coordinating Council recommends that:*

- 2.1 The Domestic, Family and Relationship Violence Education Partnership continue its collaborative efforts to design and implement a comprehensive response to domestic violence education and intervention in West Virginia schools;
- 2.2 The Department of Military Affairs and Public Safety, the Department of Health and Human Resources, and the Department of Education, in partnership with direct service providers, assure the development and provision of educational programs for residents of juvenile jails and correctional facilities, juveniles on probation, and children served by the Office of Social Services, to help them understand the dynamics of violence behavior and learn to deal non-violently in human relationships.

### **Issue 3: Public Awareness**

The public's fear of and ignorance about the issue of domestic violence were also reported as reasons that victims do not seek assistance. There is a public misconception that violence is sometimes the only way to resolve a dispute and is therefore justified. People who believe this are less likely to identify and intervene on behalf of a victim. Victims are also told, "You should have known better than to act that way and provoke the abuse." The problem of "victim blaming" was emphasized by participants in the West Virginia Coalition Against Domestic Violence Rural Outreach Project.

Public hearing testimony and data from the Rural Outreach Project also revealed that victims may stay in an abusive situation because they are unaware of options. Elderly people and people with disabilities report that information about services is either not available to them or is not presented in an accessible manner. Representatives from the People of Color Advisory Council revealed a lack of identification with the language, format, graphics, photographs, and message used in public awareness materials. The message is not getting through.

*With regard to public education and awareness, the Family Violence Coordinating Council recommends that:*

- 3.1 The Governor, in conjunction with the private sector, develop and fund a statewide family violence prevention and awareness campaign that is sensitive to cultural and geographic diversity. The Governor's Office should demonstrate strong leadership by providing staff for the campaign, assisting in development of public service

announcements, and participating in the coordination and distribution of campaign information to all state employees.

- 3.2 The Governor's Office advocate that all sectors of the community, beginning with state government agencies and including the criminal justice system, healthcare providers, social service providers, educators, the media, the religious community, and local and county governments, develop workplace and employee assistance domestic violence response policies that encourage people within the systems to seek help and make appropriate referrals.
- 3.3 State and local law enforcement agencies issue informational materials to officers and deputies to give to all parties when they respond to a domestic violence call.
- 3.4 Hospitals, health and mental health clinics, public health departments, physicians, and other health and mental health care providers work in partnership with the West Virginia Coalition Against Domestic Violence to offer instruction and information to the public about family violence to strengthen prevention and intervention efforts with victims.
- 3.5 Professional organizations and associations, community service groups, and fraternal and civic organizations educate their members on the nature and extent of domestic violence, the importance of prevention efforts and appropriate intervention methods. They should also consider making family violence an ongoing concern, as demonstrated by adoption of a local domestic violence program or participation in an annual public awareness activity in the community.
- 3.6 The West Virginia Broadcasters Association, the West Virginia Press Association and other media outlets ensure that their depiction and coverage of domestic and family violence is truthful and constructive. The Associations should assist in disseminating information through the statewide family violence prevention and awareness campaign by airing public service announcements at times when they will be seen and/or heard by a wide audience.

## Chapter 6

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### Batterer Education and Accountability

Roger Paul Gelis, 56, was arrested Sunday and charged with first-degree murder after the body of Melba Marie Hickson Fitzgerald was found in a spring reservoir Saturday evening on property near Dunmore believed to belong to Gelis, according to Pocahontas County Sheriff Jerry Dale.

The enclosed concrete reservoir was approximately 12-to-15 feet deep, Dale said. Fitzgerald's nude body had been decapitated and has been sent to the medical examiner's office in Morgantown both for positive identification and to determine cause of death, according to Dale and a media release from the Pocahontas County Sheriff's Department.

The 42-year-old Fitzgerald was reported missing Wednesday.

Fitzgerald and Gelis operated The Intersection, a pizza and submarine sandwich shop on Route. 92 near Green Bank. According to Dale, Fitzgerald had visited the sheriff's office on two occasions recently, but had refused to file a domestic violence complaint. "This has been going on all summer," he continued. "The only thing we can do unless we have probable cause for an arrest is recommend a domestic. "She didn't want to go that route."

Dale said Fitzgerald had indicated that she had been receiving harassing telephone calls and her car and mailbox had been damaged. She had also been threatened, Dale said. Fitzgerald's car, a mid-size 1986 Oldsmobile, was found Tuesday in the Clarksburg area, according to Prosecuting Attorney Walt Weiford.

Gelis was arrested for the murder at The Intersection, Dale said. He pleaded not guilty at his arraignment Sunday and has asked for a preliminary hearing in magistrate court. According to Weiford, there are no other suspects in the case at this point.

From *The Pocahontas Times*, September 16, 1999

The 21-year-old son of a Stony Bottom murder suspect was arrested last Thursday as an accessory after the fact to the crime, according to a court file in the magistrate's office.

Alexander Gelis, of Cass, was freed the same day on \$500 cash bond. According to the court file, Gelis is accused of helping his father, Roger P. Gelis, move the body of Melba Hickson Fitzgerald and also assisting his father in abandoning her car. Alexander Gelis could face up to one year in jail and a \$500 fine for the misdemeanor offense. He was arrested by Lieutenant Ronald R. Simmons, of the Pocahontas County Sheriff's Department.

Roger Gelis, 56, is in jail without bond.

From *The Pocahontas Times*, September 23, 1999





# Batterer Education and Accountability

*"I am a batterer. I was in jail for three months and a batterer program for one year. It's hard to break the habits."*

*-Perpetrator (Morgantown Public Forum, 10-1-98)*

*"What began as an argument one night in a St. Albans, West Virginia bar between Sonya and Christopher Bailey ended six days later in a Corbin, Kentucky hospital. According to court testimony, Bailey beat his wife into unconsciousness November 26 and locked her in the trunk of her car. He then drove back and forth between West Virginia and Kentucky for six days, but never sought medical attention for his wife. Sonya Bailey, 33, lapsed into a coma and remains in a vegetative state."*

*-From an article by Brennan Ames in August 1995 NOW Newsletter*

*"Friends have said that before the assault Mrs. Bailey wanted to divorce her husband of three years but was afraid of the consequences."*

*-From an article by Margaret Groban, Esq. In the February 1996 issue of Domestic Violence Update for New York Prosecutors.*

## OVERVIEW

Domestic violence and abuse are rooted in the historical and cultural acceptance of the arbitrary right of one person to exert power over another person. This power is demonstrated through a pattern of deliberate and coercive control used to intimidate and manipulate the victim into responding according to the perpetrator's demands and desires. Control can be exerted physically or through the threats of violence. In our society, batterers experience few if any negative consequences for their behavior in school, at work, at home, at church, through the justice system, or in the media. The argument is often made that men choose to be violent, and can therefore choose not to be violent. It has also been argued that in the absence of punitive consequences and because their abusive tactics get them what they want (i.e., control over their intended victim), batterers are in fact rewarded for their behavior.<sup>1 2</sup>

Intervention with batterers is essential to break the cycle of violence and prevent its recurrence. The primary focus of a batterers intervention program must be safety of the victims. Therefore, intervention and re-education must assist batterers to identify and take responsibility for their psychologically and physically controlling behavior and to learn new skills for interacting in a non-violent manner. Most intervention programs deal with

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<sup>1</sup> Dutton, D. The Abusive Personality. New York, NY: Guilford Press, 1998.

<sup>2</sup> Patterson, G. Coercive Family Process. Eugene, OR: Castalia, 1982.

abusers in groups, as the group setting is considered most conducive to breaking down the denial and isolation common to batterers while also offering support for change<sup>3</sup>.

Mandating batterers to an intervention program in conjunction with other criminal sanctions, as a condition of probation, or as a provision of a civil protection order is gaining popularity across the country. This practice is generally welcomed as another strategy aimed at protecting victims and holding batterers accountable, however, it is not a cure-all. First, no single intervention will be as effective as a coordinated judicial response involving:

- law enforcement officers to arrest perpetrators;
- magistrates and judges to determine the appropriate sentence, which may include referral to a batterer intervention program, and apply consequences for failure to comply with the sentence;
- probation officers to monitor compliance with court orders;
- coordination with the prosecutor's office regarding participation in the batterer intervention program if it is mandated by the court;
- coordination with programs/advocates working with victims whose partners are in a batterer intervention program;
- additional and separate interventions for perpetrators who also have mental illness and/or substance abuse issues;
- support and follow-up for perpetrators who have completed or left the program;
- batterer intervention and prevention programs for incarcerated perpetrators;
- evaluation of the programs to assess effectiveness;
- on-going education of both professionals and the public about the dynamics of domestic violence; and
- adequate funding to support the system.

Secondly, a variety of intervention programs have emerged, but there is no national agreement about which model is most effective in stopping abusive behavior. Program effectiveness is difficult to assess because of program variations (e.g., outcome measures, length of intervention, theoretical basis for the program) and absence of comparison groups;<sup>4</sup> drop-out rates, which can be as high as one-third of initial participants but are not always calculated into "success rates;" and lack of follow-up data on participants. In light of these limitations, victims should be cautioned not to develop a false sense of security when batterers attend intervention programs.

There is agreement among most experts that couples counseling is not advised for batterers and their victims. Couples counseling is based on the premise that domestic violence is a shared responsibility resulting from poor communication skills and that both partners are equally motivated to change the relationship. Couples counseling does not acknowledge the imbalance of power and control that is the foundation of an abusive

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<sup>3</sup> Gondolf, E. Men Who Batter: An Integrated Approach to Stopping Wife Abuse. Holmes Beach, FL: Learning Publications, Inc., 1985.

<sup>4</sup> Chalk, R. and King, P., (Eds). Violence in Families. Washington, D.C.: National Academy Press, 1998.

relationship. Similarly, approaches that emphasize personal growth and anger management without addressing the underlying issues of self-esteem, power and control are not likely to be effective with batterers because domestic violence is an expression of a range of tactics designed to maintain control rather than an expression of uncontrolled anger.

Although victim safety may be seriously compromised in any community that turns over responsibility for perpetrator accountability to an unmonitored batterer intervention program operating outside the context of the local judicial and social service systems, monitored batterer intervention and prevention programs may help some batterers end their violence for some period of time, particularly when paired with sanctions for failure to complete the program.<sup>5</sup> Programs should continue to be examined for their effectiveness and included as one tool in each community's fight against domestic violence.

## **FINDINGS AND RECOMMENDATIONS**

In West Virginia, a group of batterer intervention program facilitators, domestic violence advocates, prosecutors, therapists, probation officers, and prison staff has been meeting since 1998 to share information about the development of programs across the state. Known as the BIPPS Group (Batterer Intervention and Prevention Programs), these individuals are helping to shape the evolution of batterer intervention in West Virginia by:

- identifying national best practices for offender intervention and sponsoring batterer intervention and prevention training in West Virginia;
- identifying the components of a coordinated community response necessary to hold batterers accountable and bringing representatives of those organizations together to share information and solve problems; and
- developing licensing standards for intervention programs.

Currently, nine batterer intervention and prevention programs operate in fourteen counties. Referrals come from magistrates, circuit judges, Child Protective Services, and batterers themselves. Programs vary in terms of duration, number of group facilitators, fees, victim contact, and intake procedures. Most programs follow nationally recognized models, such as the Duluth model; EMERGE from Quincy, Massachusetts; or the Men Stopping Violence program from Atlanta, Georgia. (See Appendix M for an overview of batterer intervention and prevention programs across the state.)

To assure program quality and some degree of consistency across programs, the Family Protection Services Board was mandated by the 1998 Legislature to “establish an application for licensure for all providers of batterer intervention and prevention programs and to govern such licensure.”<sup>6</sup>

According to testimony from the four Family Violence Coordinating Council public forums and minutes of the BIPPS Group meetings, barriers to batterer accountability include: 1) lack of understanding about the dynamics of battering by

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<sup>5</sup> Ibid.

<sup>6</sup> West Virginia Code §48-2C-16.

professionals; 2) the absence of coordinated and consistently applied consequences for abusive behavior; 3) insufficient coordination among programs for batterers, referring courts and programs serving victims; and 4) lack of financial and technical assistance support for batterer intervention and prevention programs.

*To strengthen the system of perpetrator accountability, the Family Violence Coordinating Council recommends that:*

- 1.1 The Legislature enact the batterer intervention and prevention program licensing standards, as submitted by the Family Protection Services Board, during the 2000 Legislative Session.
- 1.2 Referrals for batterer intervention by professionals in the legal and human service systems be made to licensed batterer intervention and prevention programs where they are available.
- 1.3 The Department of Military Affairs and Public Safety Division of Corrections work in partnership with West Virginia Coalition Against Domestic Violence to:
  - a. develop programs for incarcerated perpetrators; and
  - b. provide training for staff in correctional facilities and jails.
- 1.4 The Legislature enact legislation which would mandate participation in batterer intervention programs by perpetrators incarcerated in correctional facilities.
- 1.5 The Department of Health and Human Resources Office of Behavioral Health Services and the West Virginia Behavioral Health Providers Association work in partnership with the West Virginia Coalition Against Domestic Violence to:
  - a. develop training about domestic violence and batterers for mental health and substance abuse staff; and
  - b. design effective treatment strategies for women and men for whom domestic violence and substance abuse and/or domestic violence and mental illness are concurrent issues.
- 1.6 The Family Protection Services Board work in partnership with the West Virginia Coalition Against Domestic Violence and the Division of Corrections to:
  - a. design and implement an evaluation of local batterer intervention and prevention programs to monitor the implementation and assess the effectiveness of the group-based educational model that addresses power and control issues; and
  - b. design and implement outcomes and performance indicators to assess the effectiveness of batterer intervention and prevention programs and community components.

## Data Collection

On March 15, 1999, Robin Runion died in a fire in Ghent at the home of her fiancé. She was 35. Five months later, police arrested the man she was going to marry, Dr. Bruce M. Doak, 45, who practiced family medicine in Sophia.

Runion had made several calls to friends during the three hours before she died. She had called police to report domestic violence two hours before the fire. On that call, police saw Doak carry Runion in his arms because she was incapacitated by prescription drugs.

Before she started seeing Doak, Runion was close to her family, friends said. Afterward, she gave up her 13-year-old son and 10-year-old daughter. She was not allowed to call her friends, and only talked to them when he was not home. Incoming calls were blocked from the telephone. She had been locked in the house and her father was prevented from seeing her. Friends said Runion was on drugs prescribed by Doak the whole time she was with him. She took intravenous drugs at home. Police said Doak had shot and beaten Runion in the past. Her doctor warned her that she would probably be killed if she stayed with him.

Police found a bullet near her body, but no bullets had penetrated her body. The chief medical examiner found rib fractures suggesting she had been assaulted. She had a large amount of a sedative in her body when she died of smoke and soot inhalation in the bedroom of the house.

Doak faces a charge of first-degree murder, four counts of mail fraud and lying to the federal Drug Enforcement Agency. Before opening his osteopathic practice in Sophia, Doak practiced in Georgia, in Nicholas and Fayette Counties, then Parkersburg

From *The Beckley Register-Herald*, September 2, 1999



# Data Collection

## OVERVIEW

The Family Violence Coordinating Council is directed to make “recommendations on the current standards and any standards which may be developed to accurately measure the nature and extent of family/domestic violence.” The collection of accurate, reliable and accessible data is critical for effective planning and policy making. In addition to presenting a picture of the number of people affected by the problem, data can be used to evaluate and monitor the effects of changes in policy and procedures.

Any assessment of the extent of the domestic violence in West Virginia must first consider how the term “family/domestic violence” is defined, how it is measured and how the information is obtained and reported. West Virginia Code §48-2A-2 defines “family violence,” “domestic violence,” “domestic or family violence,” or “abuse” as “the occurrence of one or more of the following acts between family or household members:

- attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;
- placing another in reasonable apprehension of physical harm;
- creating fear of physical harm by harassment, psychological abuse or threatening acts;
- committing either sexual assault or abuse;
- holding, confining, detaining, or abducting another person against that person’s will.”

“Family/household member” is defined as “current or former spouses, persons living as spouses, persons who formerly resided as spouses, parents, children and stepchildren, current or former intimate or sexual partners, persons who are dating or who have dated, persons who are presently residing or cohabitating together or in the past have resided or cohabitated together, a person with whom the victim has a child in common, or other persons related by blood or marriage.”<sup>1</sup>

## FINDINGS

Information about the extent of domestic violence in West Virginia can be found from a variety of sources, including the West Virginia Coalition Against Domestic Violence, the West Virginia State Police, the West Virginia Supreme Court of Appeals, the Office of the Chief Medical Examiner, and the Bureau for Public Health’s Vital Statistics Office. The Coalition (WVCADV), a private, not-for-profit organization representing the state’s thirteen licensed domestic violence programs, collects data annually about services provided by its members. During FY 1998 (July 1, 1997 – June 30, 1998):

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<sup>1</sup> West Virginia Code §48-2A-2.

- 35,601 shelter nights were provided;
- 21,155 hotline calls were answered;
- of the 21,067 adults served, 1,646 stayed at least one night in a shelter, and 19,421 adults received non-residential services such as counseling, legal advocacy, transportation, and/or support groups;
- of the 4,572 children served, 1,747 stayed at least one night in a shelter, and 2,825 children received non-residential services such as advocacy and counseling.

The Criminal Identification Bureau of the West Virginia State Police annually prepares the Uniform Crime Report in compliance with Chapter 15, Article 2, Section 24, Subsection i of the State Code. The State Police publish statistics on the occurrences of and arrests for domestic violence as part of its Crime in West Virginia annual report. The State Police provide all state, county and local law enforcement agencies with a definition of domestic violence and instructions for reporting in order to standardize the data as much as possible. According to the 1998 Uniform Crime Report (January – December 1998):

- one-hundred thirty-three (133) state police detachments and local and county law enforcement departments in the state, plus four college campuses, reported receiving at least one domestic violence complaint in 1998, with the number ranging from one to 1149 (Charleston Police Department);
- there were 10,397 complaints filed, a 1% increase over 1997;
- 3,912 arrests were made, a decrease of 1% since the previous year;
- eighty-two percent (82%) of victims were females and 17.5% were males;
- almost eighty-five percent (84.5%) of offenders were male and 15.5% were female;
- the youngest victim was one year old, the oldest victim was 97 years old, with the average age of the victim being 31 years;
- 24 of the 80 homicides reported in 1998 were domestic related, or approximately one-third of all murders in West Virginia. This has been a consistent trend for the past ten years.

The Supreme Court reports information about caseloads at the state's trial and appellate courts. In 1997, with regard to domestic violence:

- Over 15,500 protective orders were filed in magistrate court, an increase of 200% since 1990.<sup>2</sup>

The State Office of the Chief Medical Examiner (OCME) investigates all deaths due to unnatural causes and collects statistics about domestic-violence-related homicides as part of its overall database on homicides. The Bureau for Public Health's Health Statistics Center collects, analyzes and disseminates information garnered from death certificates and the state trauma registry.

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<sup>2</sup> *Commission on the Future of the West Virginia Judicial System Final Report*, 1998.



A wealth of information about domestic violence victims, batterers and services exists. However, its value in describing the status of domestic violence in West Virginia is compromised by a number of factors. First, it is generally well known that many more incidents of domestic violence occur than are reported to the police.<sup>3</sup> For that reason, the Uniform Crime Report figures should be viewed as conservative estimates of incidence. Differences in definition also cloud the picture, as can be seen by the differences in fatality statistics presented by the State Police and the Office of the Chief Medical Examiner. Third, the number of children and adults served by the licensed domestic violence programs should also be interpreted conservatively because: 1) they do not include victims served by other community agencies; and 2) recent focus group data from “underserved populations” suggests many victims are not aware of domestic violence programs as a resource.<sup>4</sup> Fourth, there is currently no way to determine duplication of information across sources. For example, how many victims identified in the Uniform Crime Report were also served by a licensed domestic violence program?

*To assure that a more consistent database about domestic violence-related statistics is available and accessible, **the Family Violence Coordinating Council recommends that:***

- 1.1 The West Virginia Supreme Court and State Police continue to develop statewide electronic registry of domestic violence protective orders issued by any court in the state for access by the courts, law enforcement and prosecutors.
- 1.2 The Department of Health and Human Resources Bureau for Public Health adopt the statutory definition of domestic violence for use in collection of data regarding domestic violence.
- 1.3 The Governor request the state agency mandated to collect healthcare data<sup>5</sup> develop a statewide process to collect healthcare-related domestic violence statistics and develop a statewide data registry, using the statutory definition of domestic violence.
- 1.4 The Office of the Chief Medical Examiner continue to convene an interdisciplinary team to:
  - a. establish a baseline for measuring trends in domestic fatalities;
  - b. identify and review deaths occurring in West Virginia related to domestic violence (using the standard definition); use the knowledge to inform policy makers and the public about domestic fatality dynamics and the effectiveness of community prevention and intervention efforts;

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<sup>3</sup> *Incidence Rates of Violence Against Women*. Report of the National Resource Center on Domestic Violence, 1998.

<sup>4</sup> The West Virginia Coalition Against Domestic Violence Rural Domestic Violence and Child Victimization Enforcement Grant Program, Grant #96-RVAW-007.

<sup>5</sup> West Virginia Code §16-29B-6.

- c. inform policy makers and the public about domestic violence fatalities and the effectiveness of community prevention and intervention efforts; and
  - d. report to the Office of the Chief Medical Examiner, after twelve months of data collection and analysis, about the need for a Domestic Fatality Review Team in addition to the Child Fatality Review Team and Supreme Court Fatality Review Team.
- 1.5 The Family Protection Services Board work in partnership with the West Virginia Coalition Against Domestic Violence and the Division of Corrections to:
- a. design and implement an evaluation of local batterer intervention and prevention programs to monitor the implementation and assess the effectiveness of the group-based educational model that addresses power and control issues; and
  - b. design and implement outcomes and performance indicators to assess the effectiveness of batterer intervention and prevention programs and community components.

*(Note: These recommendations are repeated in the Legal System, Healthcare Response and Batterer Intervention Chapters.)*

## Chapter 8

# Coordinated Community Response

Greta Marcum stood before the audience with tears in her eyes. “For 15 years I was told that I was nobody. But, I am somebody and I always have been.” Domestic violence had been a part of Marcum’s life for 15 years. She wanted to share her story in hopes that it might help others.

Jennifer Carpenter Creech joined Marcum in telling her story of domestic abuse and the struggle she has had with the system in dealing with her ex-husband. She said she would have to go to a family law master for one thing, a magistrate for another, and other agencies for countless more problems that would spring up with the different custody, divorce and criminal situations.

Creech said she would like one court to handle all family matters to cut down on confusion and to close loopholes in the system. “One place would say that I have to protect my children and then another would say that I would be held in contempt if I didn’t allow them to have visitation with their father. How can I protect them if I am in jail?”

Marcum and Creech were speaking at a public forum sponsored by the Governor’s Family Violence Coordinating Council. Representatives of the Council met with area residents Tuesday night to seek their advice about improving services for domestic violence victims.

The message was clear. West Virginia needs more education, resources and multiagency cooperation to combat family and domestic violence. Creech and Marcum both asked for domestic violence education to start in the school system so children could be reached at a very early age. Other suggestions included a single family court, education and accountability for abusers, and monitors placed on abusers who are out on bond.

-Condensed from *The Huntington Herald-Dispatch*, October 14, 1998



# Coordinated Community Response

*“Regional VAWA teams are working well. Our team is useful because members share information about specific cases, share resources, find creative ways to get things done, education one another about the dynamics of domestic violence. Police officers, prosecutors and advocates understand each other better and, thus, work together better.”*

*-Service Provider (Morgantown Public Forum, 10-1-98)*

*“We’ve got to realize that [family violence] is not just a public health problem, not just a criminal justice problem, not just an educator’s problem. It is everybody’s problem and we’re all in this together...It’s going to be solved by citizens, by educators, by doctors, by lawyers, by people coming together to try to make sense of the problem in a realistic way...we need to develop in each community a plan. A plan that makes sense.”*

*-The Honorable Janet Reno, U.S. Attorney General, keynote address, American Medical Association National Conference on Family Justice, 1994.*

## OVERVIEW

It is now commonly believed that the only way to reduce and ultimately end domestic violence is through a seamless, coordinated response at the local, county and state levels which supports victims and holds perpetrators accountable. An effective coordinated response to domestic violence should work to achieve the following goals.

- Ensure the availability and accessibility of a network of interventions that provide safety, healing and support for victims and their families.
- Fully use the civil and criminal justice system to protect victims, hold perpetrators accountable, and enforce society’s intolerance for family violence.
- Develop public policy and administrative rules that maximize victim safety and hold perpetrators accountable.
- Engage the whole community in prevention efforts designed to change the norms, attitudes, behaviors and social conditions that lead to family and domestic violence.<sup>1</sup>

At the local or regional level, components of a coordinated community response should include:

1. services to assure safety for victims at the scene and in the immediate short term (e.g., crisis lines, immediate law enforcement assistance, emergency shelters, 24-hour access to protective orders);

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<sup>1</sup> Shaw, B. (1994) Planning a coordinated community response. In *Family Violence: Building a Coordinated Community Response*. Publication of the American Medical Association, page 12.

2. crisis intervention services (e.g., legal advocacy, medical care, crisis counseling and support);
3. effective and coordinated justice system response;
4. appropriate response to the perpetrator (e.g., arrest when probable cause, appropriate sanctions and sentences, batterer intervention programs);
5. follow-up services for victims and perpetrators (e.g., mental health and substance abuse counseling, services for child victims, interagency protocols for care and referral, access to child care);
6. trained personnel in all systems;
7. coordination, monitoring and evaluation of interventions (e.g., Court Watch, fatality review teams, case management);
8. prevention services (e.g., outreach and education in the schools, early identification of young children with behavior problems, public awareness campaigns, access to affordable housing and child care).<sup>2</sup>

Critical to the success of a coordinated community response is the inclusion of a broad range of people and organizations who have a stake in the community and the safety and well-being of its residents. Most collaborations include professional and government representatives, such as the domestic violence programs, law enforcement and court personnel, health and mental health providers, social service agencies, and the county commission. A strong community response team should also involve survivors of domestic violence, representatives from the informal support networks used by women in the community, the faith community, representatives from marginalized and underserved groups (elderly, racial/ethnic minorities, people with disabilities, lesbian/gay/bisexual/transgendered people), local community action agencies, local citizens who are interested in the issue and are considered “movers and shakers” in the community, crime watch groups, and others.<sup>3</sup>

Research and experience suggest that an action-oriented family violence coordinating council may be of particular importance in rural communities.<sup>4</sup> Obstacles encountered by victims and the service delivery system may include all or some of the following.

- *Geographic isolation.* Victims may be isolated from neighbors and family with no source of transportation, justice services may be far away, and law enforcement agencies must cover large geographic areas with few officers.
- *Social climate.* Fleeing the abuse may mean leaving one’s entire family; the church or religious community may not support leaving the batterer; and there is a strong likelihood that the victim, the offender, law enforcement, and service providers know each other, increasing the victim’s shame and sometimes resulting in professional “minimizing” of the abusive behavior.

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<sup>2</sup> Ibid, pp. 13-16.

<sup>3</sup> *Developing a Coordinated Community Response to Domestic Violence.* Publication of the National Resource Center on Domestic Violence, Harrisburg, PA.

<sup>4</sup> Kirkman, T. Prosecution concerns for rural jurisdictions, *National College of District Attorneys Domestic Violence Conference Manual*, 1997.

- *Information for victims.* Victims may not be aware of the criminal nature of domestic violence or how and where to access services.
- *Access to training.* Professionals may not have access to the most updated intervention strategies or be aware of effective responses to multiple victims in a family.

Establishment of a local family violence coordinating council can address some of these concerns by: 1) identifying local resources and conducting creative community awareness campaigns; 2) sponsoring local training about domestic violence as well as the roles and responsibilities of responding agencies; 3) developing written interagency protocols; 4) establishing transportation and safe-home networks for emergencies; and 5) working to increase access to education, job training and day care.

Coordinated community response is most likely to work well if connected to a coordinated state-level response. To complement the work of local coordinating councils, the National Council of Juvenile and Family Court Judges endorses the formation of a state-level coordinating council to:

- promote public and professional awareness;
- research and promote effective prevention and intervention strategies;
- facilitate communication and coordination among public and private agencies that provide services to victims and batterers;
- facilitate development and implementation of a comprehensive plan of data collection for courts, prosecutors, law enforcement officers, health care and social service providers, and state agencies;
- provide technical assistance to local coordinating councils.<sup>5</sup>

## **FINDINGS AND RECOMMENDATIONS**

### ***Issue 1: Coordination of Community-based Efforts***

With the exception of domestic violence programs and advocates, none of the entities involved with responding to domestic violence incidents in each community has domestic violence response as its sole focus, or a complete picture of the ways in which victims of domestic violence may be served. As a result, the emphasis on domestic violence matters is subject to local conditions, priorities and personalities. The quality of assistance a victim of domestic violence is provided should not depend upon where she lives in the state.

Consistent assistance to victims statewide is also impeded by the resources available to communities. Federal monies are available through the Victims of Crime Act (VOCA) and Violence Against Women Act (VAWA) administered by the Division of

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<sup>5</sup> *Model Code on Domestic Violence*. Publication of the National Council of Juvenile and Family Court Judges, Reno, Nevada, 1994, pp. 39-40.

Criminal Justice Services. Other federal monies have been tapped by local communities through direct grants.

The Division of Criminal Justice Services uses the VAWA funds to support county STOP Teams consisting, at a minimum, of law enforcement, prosecution and victim service agencies. Funding is awarded on a competitive basis. Grantees are expected to:

- include a broad base of professionals and community representatives to serve on the team;
- provide an efficient and broad base of services for victims;
- share information with neighboring counties or regions to improve collaboration and service delivery efforts;
- develop written model multidisciplinary protocols/policies;
- train community professionals on violence against women issues and local protocol/policies;
- develop and implement prevention efforts;
- conduct public awareness campaigns to increase community knowledge about violence against women and available resources;
- encourage early intervention for violence against women; and
- create a small task force to deal with specific cases in the criminal justice system and discuss how to improve local response.

Appendix N lists the twenty-eight STOP Team grants awarded for FY 2000, as well as four statewide grants awarded to evaluate the local teams, provide training and technical assistance to domestic violence programs and prosecutors, and initiate response teams for sexual assault cases. The Division is also responsible for annually evaluating the effectiveness of the county STOP Teams.

*To promote the development of a reliable and consistent community-based response to domestic violence statewide, **the Family Violence Coordinating Council recommends that:***

- 1.1 The Supreme Court adopt a policy promoting and defining the role of judges and magistrates in local domestic violence coordinating councils, given their position of neutrality in judicial matters.
- 1.2 The Executive and Legislative branches identify state funding to enable expansion of coordinated community response teams (STOP teams) statewide.

## ***Issue 2: State-level Coordinated Response***

A variety of state agencies provide services either directly or through contracts to victims and perpetrators of domestic violence. This report highlights such initiatives as the administration of federal VAWA and VOCA funds through the Division of Criminal Justice Services, development of policies and training for the Family Violence Option for domestic violence victims receiving public assistance or child support, domestic violence



training provided through the State Police Academy, the Domestic Violence Registry being developed by the Supreme Court and State Police, and support and oversight provided to the licensed domestic violence programs by the Family Protection Services Board.

However, there is no centralized source of information about all the state level initiatives, no formalized structure for communication among state agencies or between state agencies and domestic violence advocacy groups, nor is any entity responsible for assuring that state agency initiatives are aligned to reach the common goals of victim safety and perpetrator accountability. Further, there is no structure in place to assure that state-level policies are supportive of a coordinated response at the community and statewide levels.

*To promote the development of a reliable and consistent state-level and statewide response to domestic violence, **the Family Violence Coordinating Council recommends that:***

The Governor extend funding for part-time staffing of the Family Violence Coordinating Council until January 2001 in order for the Council to:

- a. research in greater depth the status of child abuse, elder abuse and other current and critical issues and make recommendations to the Governor and Legislature;
- b. monitor implementation of the recommendations present in this report and prepare a progress report for the Governor and Legislature in January 2001;
- c. work toward development of legislation proposed in this report;
- d. monitor legislation and public policy related to family violence;
- e. serve as a resource for information-sharing about family violence initiatives among public and private organizations; and
- f. develop recommendations regarding the purpose, structure and funding of the Family Violence Coordinating Council beyond 2001.