

FINDINGS AND RECOMMENDATIONS OF THE

# NJ Domestic Violence Fatality & Near Fatality

R E V I E W B O A R D

DECEMBER 2009

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# TABLE OF CONTENTS

New Jersey Domestic Violence Fatality and Near Fatality Review Board Members	i
In This Report	iii
List of Recommendations	iv
Description of the New Jersey Domestic Violence Fatality and Near Fatality Review Board	viii
History	
Membership	
Review Process	
Confidentiality Agreement	
Projects and Publications	
Introduction	1
Findings and Recommendations	3
Cultural Competency	
Education Regarding Different Aspects of Domestic Violence	
Domestic Violence and the Courts	
Domestic Violence and Self-Defense	
Identifying Services for Domestic Violence Victims	
Police and Court Response	
Responses to Recommendations from 2006	15
Recommendation 1a	
Recommendation 1b	
Recommendation 2a	
Recommendation 2b	
Recommendation 3	
Recommendation 4a	
Recommendation 4b	
Recommendation 5	
Recommendation 6	
Recommendation 7	
Recommendation 8a	
Recommendation 8b	
Recommendation 9	
Recommendation 10	
Recommendation 11	
Recommendation 12	
Appendix A – New Jersey Acts of Domestic Violence, <i>N.J.S.A. C.2C:25-19</i>	28
Appendix B – Governing Legislation, <i>N.J.S.A. 52-27D-43.17</i>	29
Appendix C – Confidentiality Agreement	33
Appendix D – <i>When Battered Women become Defendants: Suggested Guidelines for Prosecutors, Battered Women’s Justice Project/Criminal Office and the National Clearinghouse for the Defense of Battered Women</i>	35

# NEW JERSEY DOMESTIC VIOLENCE FATALITY AND NEAR FATALITY REVIEW BOARD MEMBERS

## Government Members:

Commissioner of the Department of Community Affairs  
Charles A. Richman, Acting Commissioner

Commissioner of the Department of Human Services  
Designee: Beth Connolly, Special Assistant to the Commissioner

Commissioner of the Department of Health and Senior Services  
Designee: Katherine Hempstead, Director, Center for Health Statistics

Director of the Division on Women  
Designee: Theresa Daniels

Attorney General  
Designee: William Zaorski, Department of Law and Public Safety

Public Defender  
Yvonne Smith Seagars

Superintendent of the State Police  
Designee: Alyson Honrath, Sergeant, Victim Services Unit

Supervisor of the Office on the Prevention of Violence Against Women  
Carol Vasile

State Medical Examiner  
Designee: Laura Cerminara, Forensic Administrator

Program Director of the NJ Domestic Violence Fatality and Near Fatality Review Board  
Maggie-lou Mari

Executive Director of the Task Force on Child Abuse and Neglect  
Designee: Jane Sweeney, Administrator, Office of Domestic Violence and Family Support Services

## Public Members:

County Prosecutors Association

Linda Estremera, Assistant Prosecutor, Middlesex County

New Jersey Coalition for Battered Women

Sandy Clark, Associate Director

Law Enforcement Community

James Murphy, Former Deputy Police Chief, Washington Township

Psychologist

Shamita Das Dasgupta, Psychologist

Health Care Professional

Anna Trautwein, Manager, Continuous Survey Readiness, Saint Peter's University Hospital

## Research Consultant:

Sue Rovi, PhD, University of Medicine and Dentistry of New Jersey

## Acknowledgements:

The New Jersey Domestic Violence Fatality and Near Fatality Review Board would like to offer their gratitude to Katherine Bluhm for her assistance in compiling the responses to the Board's 2006 Recommendations Report, entitled *Responding to Victims*.

The New Jersey Domestic Violence Fatality and Near Fatality Review Board would like to offer their gratitude to the following interns:

Rachel Anders, The College of New Jersey

Margaret Coppolo, Douglass College, Rutgers University

Amber Mirza, Douglass College, Rutgers University

The New Jersey Domestic Violence Fatality and Near Fatality Review Board would like to this opportunity to thank the change agents that responded to our request to implement the recommendations from the New Jersey Domestic Violence Fatality and Near Fatality Review Board's previous report. Change would not be possible without the assistance of these agencies.

# IN THIS REPORT

## Recommendation List

This section includes a complete list of all recommendations contained in this report.

## Description of the Domestic Violence Fatality and Near Fatality Review Board

This section contains a history and description of the Domestic Violence Fatality and Near Fatality Review Board and how the Board identifies and reviews intimate partner fatalities.

## Introduction

This section contains an overview of the cases reviewed for this report.

## Recommendations

This section contains the findings and recommendations of the Domestic Violence Fatality and Near Fatality Review Board based upon qualitative review of intimate partner fatalities. This section is comprised of a series of brief narratives explaining Board findings and the recommendations that respond directly to those findings.

## Responses to Recommendations from 2006

This section contains the implementation notes and/or comments from change agents explaining how they have taken steps toward implementation of the recommendations put forth in the Domestic Violence Fatality and Near Fatality Review Board's previous recommendation report.

## Definition of Domestic Violence Fatality

According to the Board's governing legislation (*N.J.S.A.52:27D-43.17*) domestic violence related fatality means a death which arises as a result of one or more acts of domestic violence as enumerated in section 3 of *N.J.S.A. 2C:25-19*.<sup>1</sup> In New Jersey acts of domestic violence are defined as homicide, assault, terroristic threats, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual contact, lewdness, criminal mischief, burglary, criminal trespass, harassment and stalking (see Appendix A).<sup>2</sup>

Although the legislated definition of domestic violence is broad, the New Jersey Domestic Violence Fatality and Near Fatality Review Board decided to focus its domestic violence fatality homicide case review, at this time, exclusively to cases of intimate partner violence homicide.

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<sup>1</sup> *N.J.S.A. 52-27D-43.17*

<sup>2</sup> *N.J.S.A. 2C:25-19*

# LIST OF RECOMMENDATIONS

## Recommendation 1a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Board of Nursing as well as related mental health fields require continuing education on cultural competency.

## Recommendation 1b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends law enforcement and the courts engage in cultural competency continuing education and adopt policies and practices that reflect cultural competence.

## Recommendation 2

The New Jersey Domestic Violence Fatality and Near Fatality Review Board reiterates the sentiments of the recommendation found in its *Responding to Victims Report* (2006); that the New Jersey Legislature pass legislation mandating domestic violence training and education of healthcare providers on identifying patients in healthcare settings who may be victims of domestic violence. This legislation should include adaptation of culturally sensitive screening and intervention protocols in all healthcare settings, including home healthcare.

## Recommendation 3a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends that professional boards that regulate health care providers incorporate the correlation between domestic violence and suicide into continuing health care education.

## Recommendation 3b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends that the Department of Law and Public Safety incorporate into on-going police training the correlation between domestic violence and suicide.

## Recommendation 4a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association, Family Law Section, in conjunction with professionals with a demonstrated expertise in domestic violence and victim safety, create a specialty area of practice in domestic violence in order to increase the pool of attorneys who have an expertise in this area.

## Recommendation 4b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Supreme Court, as part of its mandatory continuing legal education program, require all attorneys be trained to recognize the indicators of domestic violence and be educated on their ethical obligations to clients who are victims. Such specialized training programs should stress the importance of incorporating legal advice and practices that do not compromise victim safety. The program should be conducted by professionals with a demonstrated expertise in domestic violence and victim safety.

## Recommendation 4c

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association, Family Law Section, offer domestic violence training for attorneys conducted by domestic violence experts and developed with the guidance of the American Bar Association, Commission on Domestic Violence manual entitled: *The Impact of Domestic Violence On Your Legal Practice: A Lawyer's Handbook (2<sup>nd</sup> Edition)*.

## Recommendation 5

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Supreme Court require criminal court judges receive annual domestic violence education. The education, at a minimum, should consist of an explanation of the dynamics of domestic violence, the impact of domestic violence on society, statutory and case law concerning domestic violence, available sanctions and intervention options, and information regarding available community resources and support services.

## Recommendation 6

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts educate both family and criminal court judges in the dynamics of domestic violence within same-sex relationships.

## Recommendation 7a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association provide its members, particularly criminal defense attorneys in private practice, training regarding the correlation of domestic violence and substance abuse.

## Recommendation 7b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Office of the Public Defender provide its staff with training regarding the correlation of domestic violence and substance abuse.

## Recommendation 7c

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General provide county and municipal prosecutors with training regarding the co-occurrence of domestic violence and substance abuse. Further, the Board recommends the Office of the Attorney General include education on the correlation between substance abuse and domestic violence as part of the annual domestic violence training received by law enforcement.

## Recommendation 7d

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts include the correlation between domestic violence and substance abuse as one of the topics at the annual domestic violence conference for the judiciary.

## Recommendation 8

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Supreme Court extend the policy of contacting the victim prior to dismissal of a restraining order on a second or subsequent court nonappearance.



## Recommendation 9a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends that before bail is set or reduced in any domestic violence case, the prosecutor discuss with the victim her/his concerns regarding her safety should the batterer be released. Moreover, the prosecutor should place on the record in any bail proceeding, the concerns of the victim. At any bail reduction hearing or proceeding, the prosecutor should, on the record, review domestic violence risk factors as noted in Recommendation 9b.

## Recommendation 9b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts promulgate danger assessment criteria and pretrial release conditions to be utilized by judges as a guide in setting bail or pretrial release conditions, similar to those outlined in the *Ohio Domestic Violence Benchbook, A Practical Guide to Competence for Judges & Magistrates 2d. edition* written by the Family Violence Prevention Center. Criteria should include such factors as the offender's history of domestic violence, whether the offender has a history of violating court orders, escalation of violence, batterer's use of threats with weapons, threats of homicide and suicide and the victim's fear of the abuser.

## Recommendation 9c

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts require judges to ensure that before bail is set or reduced, the prosecutor contact the victim and the victim's concerns are placed on the record.

## Recommendation 9d

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the State Domestic Violence Working Group utilize the resource *Pretrial Release Conditions in Domestic Violence Cases: Issues and Context* by J. Sadusky to study the feasibility of creating a domestic violence pretrial screening protocol based on screening protocols promulgated throughout the nation that serve to enhance the safety of victims of domestic violence when their attackers are released from jail when bail is set or reduced.

## Recommendation 10a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association offer its members, in particular criminal defense attorneys in private practice, domestic violence training concerning self-defense cases where a victim kills or severely injures the abuser. Training should include, but not be limited to: dynamics of domestic violence, understanding self-defense laws and the concept of a predominant aggressor. The training should be conducted by professionals with a demonstrated expertise in domestic violence and victim safety.

## Recommendation 10b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Office of the Public Defender provide its staff with domestic violence training concerning self-defense cases where a victim kills or severely injures the abuser. The training should include, but not be limited to: dynamics of domestic violence, understanding self-defense laws and the concept of a predominant aggressor. Further, it is recommended these trainings are to be provided by trainers with expertise in domestic violence and victim safety.

## Recommendation 11

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General provide county prosecutors domestic violence training concerning self-defense cases where a victim kills or severely injures the abuser. The training should include, but not be limited to: dynamics of domestic violence, understanding self-defense laws and the concept of a predominant

aggressor. The training should be conducted by professionals with a demonstrated expertise in domestic violence and victim safety.

## Recommendation 12a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General direct county prosecutors to follow the same standard as police officers in regards to charging victims who act in self-defense as stated in the Prevention of Domestic Violence Act, *N.J.S.A. 2c:25-21(3)*: “no victim shall be denied relief or arrested or charged under this act with an offense because the victim used reasonable force in self defense against domestic violence by an attacker.”

## Recommendation 12b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the County Prosecutors Association utilize the resource entitled, *When Battered Women Become Defendants: Suggested Guidelines for Prosecutors* compiled by the Battered Women’s Justice Project/Criminal Office and the National Clearinghouse for Defense of Battered Women. This resource can be used as a model for developing standards for prosecutors investigating homicides committed by those falling within the definition of victim under the New Jersey Prevention of Domestic Violence Act.

## Recommendation 13

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General review New Jersey self-defense laws and evaluate them as to their relevance and fairness to domestic violence victims. Furthermore, as a result of this study, the Board recommends legislation be drafted to change laws where appropriate. Finally, the Board recommends the Office of the Attorney General review self-defense laws as they relate to death by auto laws in cases where domestic violence is evident.

## Recommendation 14

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General facilitate annual education on domestic violence for all assistant prosecutors. Further, county prosecutors should promote ongoing collaboration between the domestic violence assistant prosecutors and all assistant prosecutors where the victim-assailant relationship falls within the legal definition of domestic violence as provided by *N.J.S.A. 2C:25-19*, the Prevention of Domestic Violence Act.

## Recommendation 15

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Coalition for Battered Women encourage local domestic violence programs, where feasible, to reach out and provide assistance to victims of domestic violence charged with homicide.

## Recommendation 16

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General, in collaboration with the New Jersey Coalition for Battered Women, revise the Model Standard Operating Procedure on Domestic Violence Crisis Intervention Teams to include criteria requiring a mandatory activation of a team member when certain criterion is met. Revisions to operating procedures should also require law enforcement officers responding to a domestic violence incident document in the officer’s incident report if the victim was informed of the services that can be provided by a crisis response team and the victim’s response to the offer of this service.

# DESCRIPTION OF THE BOARD

## History

The precursor to the current New Jersey Domestic Violence Fatality and Near Fatality Review Board, the New Jersey Domestic Violence Fatality Review Board, was created in 2000 pursuant to Governor's Executive Order No. 110. The New Jersey Domestic Violence Fatality Review Board project was charged with identifying and understanding the circumstances surrounding fatal acts of domestic violence in the State of New Jersey. At that time, the New Jersey Domestic Violence Fatality Review Board focused its review exclusively on homicide-suicide domestic violence-related fatalities that were closed cases, because the perpetrator was known and deceased. The New Jersey Domestic Violence Fatality Review Board reviewed 58 homicide-suicide cases that occurred in New Jersey between 1994 and 1999. However, the total number of fatalities from these cases numbered 125, including primary victims, perpetrators and associated deaths. The New Jersey Domestic Violence Fatality Review Board published its findings in a report entitled, *Responding to the Victims - the New Jersey Domestic Violence Fatality and near Fatality Review Recommendations Report* (June 2006).

In 2004, the New Jersey Domestic Violence Fatality Review Board's scope, purpose and membership was expanded under N.J.S.A. 52:27D-43.17 (see Appendix B), and was permanently established as the Domestic Violence Fatality and Near Fatality Review Board (hereinafter referred to as "the Board"). The purpose of the Board is to study domestic violence-related fatalities and near fatalities in an effort to understand and prevent such deaths in the State of New Jersey through systems changes, education and public policy.

After the completion of its study of homicide-suicides, the Board decided to shift its focus to domestic violence homicides and do a more in depth review of fewer cases. The Board is currently examining intimate partner homicide cases that represent the majority of domestic violence-related fatalities and present more complex and varied issues.

## Membership

The Board is comprised of twenty-one (21) government and non-government members who represent various agencies and organizations that intersect with or impact upon domestic violence-related cases in New Jersey. A review of the membership list included at the beginning of this report reflects the following appointments or their designee: the Attorney General; the Commissioners of the Departments of Community Affairs, Human Services, and Health and Senior Services; the State Medical Examiner; the Superintendent of the State Police; the Director of the Division on Women; the Executive Director of the New Jersey Task Force on Child Abuse and Neglect; the New Jersey Public Defender, the Supervisor of the Office on the Prevention of Violence Against Women; and, the Program Director of the New Jersey Domestic Violence Fatality and Near Fatality Review Board.

Non-government members appointed by the Office of the Governor include representation from: the County Prosecutors Association of New Jersey; the New Jersey Coalition for Battered Women and the law enforcement community; a professional working with a batterer's intervention/treatment program; a psychologist; and a licensed health care provider. Individuals selected to serve on the Board all have an expertise in the area of domestic violence and are working with and for victims of domestic violence and their families.

## Review Process

In its effort to prevent future domestic violence homicides, the Board conducts systematic review of domestic violence-related homicides examining the action, or lack thereof, of both governmental and non-governmental service delivery systems that impact upon the lives of domestic violence victims or perpetrators. This review process is similar to the mortality/morbidity review utilized by medical and public health professionals to assure provision of quality services. The purpose is to see how, where and when systems change can be effected to help prevent domestic violence homicide, homicide-suicide, suicide and attempted homicide. The Board reviews all available facts and circumstances of domestic

violence-related fatalities to identify and develop a process for change in policies, procedures and protocols that can lead to fatality prevention.

The Board identifies cases for review through its partnership with the New Jersey Violent Death Reporting System (NJVDRS). The NJVDRS combines information from multiple sources to create a detailed database on all violent deaths. Primary source information includes death certificates, medical examiner and law enforcement reports. The Board's Steering Committee reviews data provided by NJVDRS and other sources to determine what cases will be selected for in-depth review. Additionally, the Board amasses as comprehensive a case file as possible including, but not limited to: documentation from the involved county prosecutor's office, health-care providers, and the judiciary. Board members review a select number of cases per year focusing on one case at a time, and employ Board expertise to review each system's impact upon the case.

## Confidentiality Agreement

The information shared during Board meetings is confidential; all members are required to sign a confidentiality agreement at the beginning of each meeting (see Appendix C). Signing of this agreement constitutes a pledge that all information shared during the review process will remain confidential and will not be shared with individuals outside of the Board. Signed confidentiality agreements are kept on file with the Board's Program Director.

## Board Projects and Publications

The Board publishes research on its findings and engages in projects based upon its recommendations and national findings:

**Domestic Violence Near Fatality Research Project:** The Board implemented a research project with victims of domestic violence-related near fatalities. The project entailed interviewing eleven victims of domestic violence-related near fatality(ies) in an effort to create victim-informed recommendations on how to decrease danger level, thereby increasing victim safety and, potentially, the safety of any involved children. The project focused on learning from victims about the following concerns:

- new or typical risk and protective factors such as threats to kill, episodes of strangulation, unemployment of the batterer, and access to domestic violence shelters and services, and living apart from the batterer;
- services and systems accessed by victims including police, judiciary, healthcare and social services, etc. How victims came in contact with these agencies, who they reached out to for help, who they did not reach out to, and why; and,
- what services and systems the victims thought were protective or unresponsive in increasing safety and preventing near fatality(ies).

**Latino Outreach Project:** The 211<sup>th</sup> Legislature passed legislation establishing a domestic violence public awareness campaign in order to promote public awareness of domestic violence. Through data analysis, the Board discovered a trend in that Hispanics/Latinos had almost twice the rate of domestic violence homicide-suicide related killings compared to the overall demographics in the state. Hispanics/Latinos, at the time of the case reviews, made up approximately 13% of the reported population in New Jersey, however they accounted for 21% of the victims and 24% of the perpetrators in the homicide-suicide cases. Based upon this finding, the Board initiated the Latino Outreach Project, a collaborative effort between the Board, the New Jersey Division on Women, the Center for Hispanic Policy, Research and Development, and the Puerto Rican Action Board - a community based organization serving the Latino population in New Brunswick, New Jersey. The pilot project focused on developing a social marketing campaign promoting awareness of domestic violence in the Latino community in the City of New Brunswick. In tandem, the Puerto Rican Action Board partnered with a local domestic violence program, Women Aware, to provide linguistically and culturally appropriate counseling services to the community at its own Board offices.

**Regional Conferences on Domestic Violence Fatality Review:** On December 8-9, 2006, the Board hosted the First Regional Domestic Violence Fatality Review Conference in Princeton, New Jersey. Supported by Violence Against Women Act funding, the conference was the first of its kind in the nation. Thirty-two attendees participated from Connecticut, New York, Pennsylvania, Delaware, Maryland, the District of Columbia and as far away as Georgia. Jacquelyn Campbell, PhD, RN, and internationally known expert on domestic violence, presented her research findings on femicide, provided training on the use of her Danger Assessment tool, and explored how this tool might be applied to assist in review of domestic violence fatalities. Based upon the ensuing enthusiastic feedback from other State's participants, the Board continued to lead national efforts by reconvening in 2007.

On November 29-30, 2007, the Board sponsored the 2<sup>nd</sup> Regional Conference on Domestic Violence Fatality Review in Princeton, New Jersey. This conference focused on issues surrounding review of near fatalities and best practices in the field of domestic violence fatality review. Thirty-seven participants from five states attended the 2<sup>nd</sup> Regional Conference. These conferences offer the Board and all participants an opportunity to be informed about and discuss up-to-date research and best practices, and to explore creative solutions to current challenges in the field. This work continues to place New Jersey at the forefront of domestic violence fatality and near fatality review work.

**Publications:** The Board regularly publishes reports, policies and briefs based upon their findings in review of domestic violence homicides. Below is a list of the Board's most recent publications below.

- *Deaths Associated With Intimate Partner Violence in New Jersey from 2003-2007 Brief with the New Jersey Violence Death Reporting System* (May 2009)
- *Responding to the Victims - The New Jersey Domestic Violence Fatality and Near Fatality Review Recommendations Report* (June 2006)
- *Model Policy on Domestic Violence in the Law Enforcement Community* (2006)
- *New Data and Committee Updates* (February 2003)
- *Remembering the Victims* (July 2001)

# INTRODUCTION

According to the 2009 joint publication of the New Jersey Domestic Violence Fatality and Near Fatality Review Board and the New Jersey Violent Death Reporting System, during the period of January 1, 2003 thru December 31, 2007, 179 New Jersey residents aged 18 and older were killed by an intimate partner, i.e., a current or former spouse, boyfriend, or girlfriend. Despite the predominance of males as overall homicide victims in the State, three quarters of intimate partner homicide victims were women. The most common perpetrators of intimate partner homicide against both women and men were current or ex-boy/girlfriends, but women were more frequently killed by a current or former spouse than men (Table 1).<sup>3</sup>

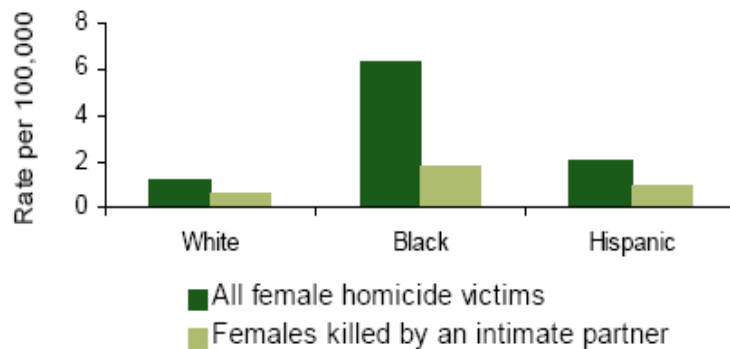
**Table 1. Intimate partner homicide by victim's gender, relationship to suspect, New Jersey, 2003-2007**

	Males		Females	
	N	%	N	%
All homicides	1,549	81.8	344	18.2
All IPV homicides	41	22.9	138	77.1
Current spouse	11	26.8	55	39.9
Ex-spouse	-	-	4	2.9
Current or ex-boy/girlfriend	30	73.2	79	57.2
*Same-sex relationships	3	7.3	1	0.7
IPV homicide rate	41	0.3	138	0.9

\*Also counted in previous categories  
 New Jersey resident homicide victims, age 18 years and older.  
 Rate calculated per 100,000 adults, age-adjusted to the 2000 US Standard Population.  
 Data source: New Jersey Violent Death Reporting System, v.03/04/2009

Similar to the pattern observed for all homicides in New Jersey among women, rates of intimate partner homicide varied by race and ethnicity. The intimate partner homicide rates were highest among black women (42 deaths; 1.8 per 100,000) compared to white women (64; 0.6) or Hispanic/Latina women (24; 1.0); however, a higher percentage of white women and Hispanic/Latina women were killed by an intimate partner (49% and 47%, respectively) than African-American women (29%) (Figure 1).<sup>3</sup>

**Figure 1. Homicide rates among females by race and ethnicity,<sup>†</sup> New Jersey, 2003-2007**



<sup>†</sup>"White" and "Black" races are non-Hispanic. "Hispanic" can be any race group.  
 New Jersey resident homicide victims, age 18 years and older.  
 Rate calculated per 100,000 adults, age-adjusted to the 2000 US Standard Population.  
 Data Source: New Jersey Violent Death Reporting System, v.03/04/2009

The risk of intimate partner homicide also varies with age. Between 2003 and 2007, the highest rate of intimate partner homicide for women was among 25-44 year-olds (83 deaths; 1.3 per 100,000). Within this age group, black women were homicide victims at more than 3.5 times the rate of white women (30 deaths, 3.2 per 100,000 compared to 32 deaths, 0.9 per 100,000). Older female victims of intimate partner homicide, however, were predominantly white (Figure 2).<sup>3</sup>

This report contains the findings and recommendations of the Domestic Violence Fatality and Near Fatality Review Board, which are based on the qualitative review of three cases of intimate partner homicides that took place in New Jersey. The Board reviewed case synopses of all fatalities between

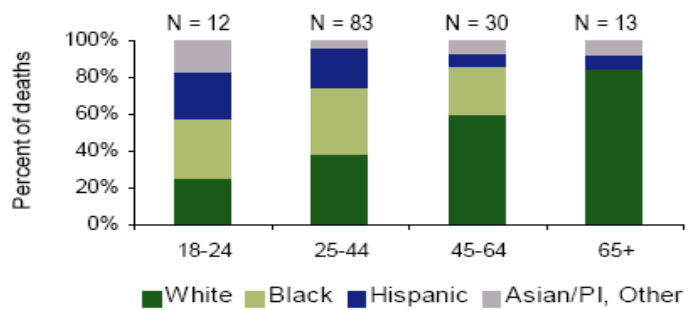
<sup>3</sup> *Deaths Associated with Intimate Partner Violence, New Jersey, 2003-2007*, An Office of Injury Surveillance and Prevention Brief, May 11, 2009

2002 through 2004 where the victim met the legal definition under N.J.S.A 2C-25, the Prevention of Domestic Violence Act and then narrowed the review to cases of intimate partner violence. These case selections were further culled based on a set of priority issues such as cases involving people of color, same-sex partners and cases where the victim of domestic violence killed the abuser. The final selections represent a combination of the priority issues mentioned above that were identified by the Board.

Although the Board’s main focus is to understand and prevent intimate partner homicides in the state of New Jersey, two of the cases reviewed involved a victim of domestic violence causing the death of the abuser when attempting to escape the abuse. The recommendations for these two cases do not focus solely on the prevention of the intimate partner homicide, rather, they focus on how to better identify and assist victims of domestic violence that have caused the death of the abuser during an act of domestic violence against them or help them in earlier stages of domestic violence so that the homicide may not have occurred.

The Board’s decision to depart from its first study of all homicide suicide fatalities from specified years to review a select number of domestic violence homicides and develop recommendations around these cases still yields important findings. The in-depth review of specific cases has allowed the Board to explore areas that have statewide implications such as recommended changes to education and training of certain professions in systems that impact on the lives of domestic violence victims. These situations are not only specific to these particular cases, but have a more universal application to the way these systems could respond to victims of domestic violence. The rich information identified in the three cases reviewed has allowed the Board to make meaningful recommendations that looking forward, may change the outcome for future victims.

**Figure 2. Race/ethnicity<sup>†</sup> of female intimate partner homicide victims by age group, New Jersey, 2003-2007**



<sup>†</sup>"White", "Black", and "Asian/PI, Other" races are non-Hispanic. "Hispanic" can be any race group.  
 New Jersey resident female homicide victims, age 18 years and older.  
 Data Source: New Jersey Violent Death Reporting System, v.03/04/2009

# BOARD FINDINGS AND RECOMENDATIONS

## Cultural Competency

New Jersey's changing demographics continue to highlight the need for agencies and systems to demonstrate cultural competency when assisting any person regardless of his/her status as a victim of domestic violence. With more than 155 languages spoken and people from numerous countries living in this state, government and non-government agencies whose mission it is to serve the public including victims of domestic violence must begin efforts towards ensuring cultural competency within their agencies.

Based upon the Board's review, language may have been a barrier for victims in certain cases. Additionally, there may have been cultural norms that presented barriers to victims seeking services that may or may not have been known to representatives of systems that interacted with the victim, most notably healthcare professionals including mental health professionals, law enforcement and the courts. This is consistent with findings from the 2006 Report of the Domestic Violence Fatality and Near Fatality Review Board entitled *Remembering the Victims*. Recognizing the changing demographics and need, N.J.S.A. 45:9-7.2, 7.3 and 7.4; 45:1-15.1; and 45:9-2. was established which requires education in cultural competence for physicians. Furthermore, the New Jersey Coalition for Battered Women developed a cultural competency work-plan focused on inclusion and access to services of its member domestic violence service programs. This has also been enhanced by the newly funded cultural competency initiative requires non-profit agencies in New Jersey that receive Violence Against Women Act (VAWA) grants to address cultural competency within their respective agencies.

### **Recommendation 1a**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Board of Nursing as well as related mental health fields require continuing education on cultural competency.

### **Recommendation 1b**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends law enforcement and the courts engage in cultural competency continuing education and adopt policies and practices that reflect cultural competence.



## Education Regarding Different Aspects of Domestic Violence

### Training for Health Care Professionals: Identifying Victims of Domestic Violence

According to the Family Violence Prevention Fund, health providers do not accurately assess the presence of domestic violence and often treat victims based on presenting injuries rather than completing a more informed, comprehensive evaluation and assessment which considers domestic violence. Victims of domestic violence may receive less than optimal care because the underlying issue of violence is never addressed.

As observed in reviews of homicide-suicide cases as well as homicide cases, victims' visits with medical providers more often than not represent missed opportunities to recognize abuse and offer assistance. During a current case review, the available records did not reflect whether there was screening for domestic violence at the time of a suicide attempt, or at other times, when the victim was seen by a doctor. The review revealed one victim had at least two exposures to health care professionals during the course of her victimization. These exposures underscore the need for training of health care providers on how to identify and respond to domestic violence victims. The Board acknowledges the debate in which some healthcare researchers question the effectiveness of routine screening. The Board maintains, however, that the benefits of screening when coupled with appropriate intervention and referral are difficult to measure without a direct assessment of the long term impact of such intervention with the individuals.

### Recommendation 2

The New Jersey Domestic Violence Fatality and Near Fatality Review Board reiterates the sentiments of the recommendation found in its *Responding to Victims Report* (2006); that the New Jersey Legislature pass legislation mandating domestic violence training and education of healthcare providers on identifying patients in healthcare settings who may be victims of domestic violence. This legislation should include adaptation of culturally sensitive screening and intervention protocols in all healthcare settings, including home healthcare.

### Training for Health Care Professionals: Correlation Between Domestic Violence and Suicide

Authorities on domestic violence such as the Family Violence Prevention Fund find that in addition to the physical effects of domestic violence, domestic violence itself is also a contributing factor to other serious chronic health problems such as depression, alcohol and substance abuse, stress, sexually transmitted diseases such as HIV/AIDS, and often interferes with how these diseases are managed by the victim.<sup>4</sup> Domestic violence may also cause emotional harm to victims that may be linked to attempted and completed suicides.<sup>5</sup>

During the review of a domestic violence homicide, it was clear that law enforcement and hospital personnel actively responded to the victim's suicide attempt. There is no indication in the record however that police or health care providers made the connection between this attempt and the highly significant connection between domestic violence and suicide. Given that the police had reason to suspect domestic violence in this case, screening by police or hospital personnel at the time of the suicide attempt might have resulted in a different outcome for this victim.

### Recommendation 3a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends that professional boards that regulate health care providers incorporate the correlation between domestic violence and suicide into continuing health care education.

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<sup>4</sup> Family Violence Prevention Fund. *Intimate Partner Violence and Healthy People 2010 Fact Sheet*, last accessed on December 18, 2009: [http://www.endabuse.org/userfiles/file/Children\\_and\\_Families/ipv.pdf](http://www.endabuse.org/userfiles/file/Children_and_Families/ipv.pdf)

<sup>5</sup> Centers for Disease Control and Prevention. *Understanding Intimate Partner Violence*, last accessed on December 18, 2009: [http://www.cdc.gov/violenceprevention/pdf/IPV\\_factsheet\\_a.pdf](http://www.cdc.gov/violenceprevention/pdf/IPV_factsheet_a.pdf)

### **Recommendation 3b**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends that the Department of Law and Public Safety incorporate into on-going police training the correlation between domestic violence and suicide.

### **Attorney Training Around Issues of Safety**

During the course of review of a homicide covered in this report and during the review of previous homicide-suicide cases by the Board, actions or advice of attorneys may have failed to incorporate victim safety issues. This was particularly evident in two areas.

First, legal advice regarding whether or not a victim should remain in the marital home upon filing of a divorce needs to take into consideration the level of risk to the victim. This is true whether or not the abuser remains in the home with the victim. Although individuals involved in a divorce proceeding may generally benefit from staying in the home in terms of a divorce settlement, this may not be the best decision for victims of domestic violence, especially those at high risk.

Second, attorneys need to be aware of the possible impact that the delivery of legal papers regarding the dissolution of a marriage may have on a batterer. Delivery of such papers should be very controlled and delivered at a time and in a manner agreed to by the informed victim. Victims may want to take extra precautions when such papers are delivered as they may serve to trigger or exacerbate the abuser's violence in that moment.

Although these were the areas that surfaced in the Board review where safety concerns apparently were not considered, there are many ways in which attorneys can and should attend to and incorporate safety into their work with domestic violence victims. Safety concerns should be of primary importance for attorneys in their work with victims.

### **Recommendation 4a**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association, Family Law Section, in conjunction with professionals with a demonstrated expertise in domestic violence and victim safety, create a specialty area of practice in domestic violence in order to increase the pool of attorneys who have an expertise in this area.

### **Recommendation 4b**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Supreme Court, as part of its mandatory continuing legal education program, require all attorneys be trained to recognize the indicators of domestic violence and be educated on their ethical obligations to clients who are victims. Such specialized training programs should stress the importance of incorporating legal advice and practices that do not compromise victim safety. The program should be conducted by professionals with a demonstrated expertise in domestic violence and victim safety.

### **Recommendation 4c**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association, Family Law Section, offer domestic violence training for attorneys conducted by domestic violence experts and developed with the guidance of the American Bar Association, Commission on Domestic Violence manual entitled: *The Impact of Domestic Violence On Your Legal Practice: A Lawyer's Handbook (2<sup>nd</sup> Edition)*.

### **Education of Criminal Court Judges about Domestic Violence**

According to the 1991 Prevention of Domestic Violence Act, all judges and judicial personnel are required to attend an initial domestic violence training within ninety (90) days of appointment or transfer and attend an annual in-service training<sup>6</sup> Although the domestic violence training is mandatory for all judges and judicial personnel it has been noted by the Board that training has been focused primarily on family court judges and personnel because those courts hear the majority of domestic violence cases.

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<sup>6</sup> N.J.S.A. 2C:25-20

In cases reviewed by the Board for this report, the victim was charged with killing the predominant aggressor. Through the Board's in-depth review of one of these cases it became clear that the judge presiding over the sentencing hearing did not have a clear understanding of the dynamics of domestic violence.

"I think with regard thereto, it is a factor that these two people, what I would call a close relationship but a very violent relationship. The [predominant aggressor's] mother made a note that they are always fussing, and she also felt that these two could end up killing each other. That she told (the predominant aggressor) to put (the victim) out before she would kill (the victim) or (the victim) killed her [the predominant aggressor].

So, obviously, the two of them were living in a violent relationship. Some of them getting some advice but ignoring it for whatever reasons."

The judge's statement about the victim and the abuser in this case having received "some advice but ignoring it for whatever reason" reflects a lack of understanding regarding the dynamics of domestic violence and the reasons victims become trapped in violent relationships; a victim caught in a violent relationship cannot and may not always want to leave the abuser nor is it always safe to do so. There are many other factors that may prevent a victim from leaving such a relationship including, but not limited to: lack of resources, poor institutional response when they reach out for help, isolation, and societal stigma of domestic violence.

## **Recommendation 5**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Supreme Court require criminal court judges receive annual domestic violence education. The education, at a minimum, should consist of an explanation of the dynamics of domestic violence, the impact of domestic violence on society, statutory and case law concerning domestic violence, available sanctions and intervention options, and information regarding available community resources and support services.

## **Domestic Violence in Same Sex Relationships**

The Board further recommends the Administrative Office of the Courts add to the mandatory training for judges and judicial personnel a component concerning domestic violence in same sex relationships. According to LAMBDA, a non-profit, gay, lesbian, bisexual and transgender agency dedicated to reducing homophobia, inequality, hate crimes, and discrimination, the rate of domestic violence in all same-gender relationships is approximately the same as domestic violence perpetrated against heterosexual women<sup>7</sup>. Similar to heterosexual individuals who experience domestic violence, the problem is vastly underreported within the gay, lesbian, bi-sexual and transgender community<sup>8</sup>. Domestic violence is an issue that crosses all sections of our society regardless of sexual orientation. The Board concluded the following statement made by the same criminal court judge as above indicating they did not understand domestic violence can occur in a relationship between two women that cared for each other, reflected the myth that domestic violence does not exist in lesbian relationships and that any violence in lesbian relationships is mutual.

"But all in all, we get down to this, it's a tragic act between people. Apparently, despite all their violence said they cared for each other, something I have great difficulty understanding. Usually this is a man and a woman situation, but these are two women who have violence with each other, apparently contentious to the end, that they loved each other. I don't understand it.

It seems to me what respect there is in society when two people can say they love each other but think they have a right to beat each other up and assault each other. I don't know whether it's the individual's fault, society's fault, but I just see so much of it and I just don't understand the theory that love and violence go together."

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<sup>7</sup> *Domestic Violence in Gay, Lesbian, and Bisexual Relationships*. LAMBDA, last accessed on December 18, 2009: [http://www.lambda.org/DV\\_background.htm](http://www.lambda.org/DV_background.htm)

<sup>8</sup> National Coalition Against Domestic Violence. *Domestic Violence and Lesbian, Gay, Bisexual and Transgender Relationships Fact Sheet*, last accessed on December 18, 2009: [http://www.uncfsp.org/projects/userfiles/File/DCE-STOP\\_NOW/NCADV\\_LGBT\\_Fact\\_Sheet.pdf](http://www.uncfsp.org/projects/userfiles/File/DCE-STOP_NOW/NCADV_LGBT_Fact_Sheet.pdf)

## **Recommendation 6**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts educate both family and criminal court judges in the dynamics of domestic violence within same-sex relationships.

### **Education Regarding the Correlation of Domestic Violence and Substance Abuse**

During the review of the domestic violence homicides where the victim killed the predominant aggressor, it was noted both victims had a substance abuse problem. The Board could not determine if these victims began abusing drugs or alcohol after the abusive relationship began. However, research demonstrates many victims of domestic violence begin to self medicate to escape the pain of their violent relationships. According to *Domestic Violence: A Handbook for Health Professionals*, women who have been abused are fifteen times more likely to abuse alcohol and nine times more likely to abuse drugs than women who have not been abused.<sup>9</sup>

Due to their substance abuse, both victims were known to local law enforcement. The law enforcement officer's familiarity with one victim appeared to hinder a clear, comprehensive and unbiased perception of her actions; she was seen as a repeat offender in a co-dependent violent relationship rather than a battered woman who was in fear for her life. Moreover, in both cases the victims' criminal records were referenced at judicial proceedings. Neither the defense attorney, prosecutor, nor judge noted or took into account that substance abuse and arrest(s) for drug-related crimes could be connected to the violence these victims were suffering at the hands of their abuser.

The Board recommends further education regarding the correlation between domestic violence and substance abuse for law enforcement, prosecutors, defense attorneys and the judiciary.

## **Recommendation 7a**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association provide its members, particularly criminal defense attorneys in private practice, training regarding the correlation of domestic violence and substance abuse.

## **Recommendation 7b**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Office of the Public Defender provide its staff with training regarding the correlation of domestic violence and substance abuse.

## **Recommendation 7c**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General provide county and municipal prosecutors with training regarding the co-occurrence of domestic violence and substance abuse. Further, the Board recommends the Office of the Attorney General include education on the correlation between substance abuse and domestic violence as part of the annual domestic violence training received by law enforcement.

## **Recommendation 7d**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts include the correlation between domestic violence and substance abuse as one of the topics at the annual domestic violence conference for the judiciary.

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<sup>9</sup> National Coalition Against Domestic Violence. *Domestic Violence and Substance Abuse Fact Sheet*, last accessed on December 18, 2009:<http://www.fivecountymha.org/Doctor%20Is%20In/Oct%209%20PEarnhart/substanceabuseanddomesticviolence.pdf>

## Domestic Violence and the Courts

### Dismissal of Restraining Orders for Nonappearance

During the review of a domestic violence homicide where the victim killed the predominant aggressor, a temporary restraining order was dismissed due to the victim's nonappearance at the court's proceeding. This dismissal happened less than a month prior to the fatal incident. The Board was not provided with any documentation from the local vicinage indicating an attempt was made to contact the victim to determine why she did not appear in court. As recognized in New Jersey court procedures, many victims do not appear for a court hearing or decide to dismiss a restraining order because they are being coerced by the abuser or fear that the violence in their relationship will escalate. Nevertheless, documentation was not provided indicating that the dismissal of this restraining order was by choice of the victim.

The year following this incident the court addressed this issue. The Board supports section 4.9.6 of the 2004 edition of the *New Jersey Domestic Violence Procedure Manual*:

“Nonappearance by the plaintiff: The domestic violence team member shall attempt to contact the plaintiff to collect as much information as practicable about the plaintiff's nonappearance and present the information to the court. Communications about the plaintiff shall be made outside the presence of the defendant. The file and notes reflecting the findings shall then be brought to the judge. If only the defendant appears [s]he should be questioned under oath concerning knowledge of the plaintiff's whereabouts. The court shall inquire if the defendant caused or is responsible for the nonappearance of the plaintiff.

If (1) the plaintiff can be contacted, an (2) the judge is satisfied (after hearing both parties' explanations) that the plaintiff's failure to appear was not of coercion and duress, and (3) the findings required as per the Order of Dismissal were made, the court may issue an Order of Dismissal. If not, or if the plaintiff cannot be contacted, the matter shall be rescheduled.”<sup>10</sup>

Although the Board supports this policy, the Board recommends it be extended to include any second or subsequent nonappearance. The Board encourages the court keep on file a copy of the Order of Dismissal for all dismissed restraining orders regardless if it involved a nonappearance by the plaintiff.

### Recommendation 8

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Supreme Court extend the policy of contacting the victim prior to dismissal of a restraining order on a second or subsequent court nonappearance.

### Bail Procedures

While the Board acknowledges a person has a fundamental right to be released on bail before trial, the Board asserts an important factor in determining the amount of bail or any reduction of bail in a domestic violence case must include consideration of the safety of the victim. A judge's decision in setting bail and possible pretrial release conditions “could well determine a domestic violence victim's survival”.<sup>11</sup>

In one case the Board reviewed, in requesting a temporary restraining order the victim expressed fear that her husband would kill her. The municipal court judge ordered the defendant held without bail on charges of aggravated assault upon the victim and upon the responding police officer, and with making

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<sup>10</sup> State of New Jersey Domestic Violence Procedure Manual (July 2004), last accessed on December 18, 2009: <http://www.judiciary.state.nj.us/family/dvprcman.pdf>

<sup>11</sup> *The Ohio Domestic Violence Benchbook, A Practical Guide to Competence for Judges & Magistrates*, Family Violence Prevention Center, 2d ed., 2003, page 59

terrorist threats toward the victim. Several days later, a Superior Court judge set bail and the defendant was released. Eight days later, the defendant murdered the victim.

There was no indication in the record regarding the procedure used for the setting of bail and whether the victim was notified of a bail hearing as required by *N.J.S.A. 2C:25-26e*. There was no documentation in the record whether the prosecutor consented to the bail or if the victim's fear of the defendant was considered before the bail amount was set enabling the defendant to be released from jail.

Although the bail set in this case was within the range of the bail schedule approved by the Administrative Office of the Courts, the Board notes bail schedule criteria fails to address considerations unique to domestic violence cases. National research in domestic violence cases has found there are recognized criteria in assessing dangerousness to domestic violence victims that should be addressed by a court before a batterer is released from custody. If a "victim has reached the conclusion that she is at risk, the experts say this should be regarded as highly predictive of the potential for increased violence against her."<sup>12</sup>

### **Recommendation 9a**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends that before bail is set or reduced in any domestic violence case, the prosecutor discuss with the victim her/his concerns regarding her safety should the batterer be released. Moreover, the prosecutor should place on the record in any bail proceeding, the concerns of the victim. At any bail reduction hearing or proceeding, the prosecutor should, on the record, review domestic violence risk factors as noted in Recommendation 9b.

### **Recommendation 9b**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts promulgate danger assessment criteria and pretrial release conditions to be utilized by judges as a guide in setting bail or pretrial release conditions, similar to those outlined in the *Ohio Domestic Violence Benchbook, A Practical Guide to Competence for Judges & Magistrates 2d. ed* written by the Family Violence Prevention Center. Criteria should include such factors as the offender's history of domestic violence, whether the offender has a history of violating court orders, escalation of violence, batterer's use of threats with weapons, threats of homicide and suicide and the victim's fear of the abuser.

### **Recommendation 9c**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Administrative Office of the Courts require judges to ensure that before bail is set or reduced, the prosecutor contact the victim and the victim's concerns are placed on the record.

### **Recommendation 9d**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the State Domestic Violence Working Group utilize the resource *Pretrial Release Conditions in Domestic Violence Cases: Issues and Context* by J. Sadusky to study the feasibility of creating a domestic violence pretrial screening protocol based on screening protocols promulgated throughout the nation that serve to enhance the safety of victims of domestic violence when their attackers are released from jail when bail is set or reduced.

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<sup>12</sup> *The Ohio Domestic Violence Benchbook, A Practical Guide to Competence for Judges & Magistrates*, Family Violence Prevention Center, 2d ed., 2003. page 57

## Domestic Violence and Self-Defense

### Education for Defense Attorneys

The review of domestic violence homicides by the Board involved the victim inadvertently killing the predominant aggressor while attempting to escape during an act of domestic violence. In both cases, the victims were subsequently charged and sentenced for a serious crime. The charging decision was made despite the fact that in one case the victim was attempting to escape a physically menacing abuser who had recently severely injured the victim. Research has shown a woman is more likely to kill an abuser during a confrontation, which is true of both cases reviewed by the Board<sup>13</sup>. Through the Board's review of these cases, it is not clear if the victims' attorneys from the Public Defenders' Office had training or knowledge of self-defense claims in cases where a victim kills the abuser.

The Board recommends education be provided for criminal defense attorneys in private practice and those working in the Public Defenders' Office so they can better assist victims who have killed the abuser.

### Recommendation 10a

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey State Bar Association offer its members, in particular criminal defense attorneys in private practice, domestic violence training concerning self-defense cases where a victim kills or severely injures the abuser. Training should include, but not be limited to: dynamics of domestic violence, understanding self-defense laws and the concept of a predominant aggressor. The training should be conducted by professionals with a demonstrated expertise in domestic violence and victim safety.

### Recommendation 10b

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Office of the Public Defender provide its staff with domestic violence training concerning self-defense cases where a victim kills or severely injures the abuser. The training should include, but not be limited to: dynamics of domestic violence, understanding self-defense laws and the concept of a predominant aggressor. Further, it is recommended these trainings are to be provided by trainers with expertise in domestic violence and victim safety.

### Education for County Prosecutors: Domestic Violence and Self-Defense

Through the Board's review of domestic violence homicide cases it is not clear if the respective county prosecutors' offices had established procedures to ascertain the history of violence in the relationship, such as previous police reports, 911 tapes and restraining order history. Further, it was not apparent to the Board that the assistant prosecutors in these two cases looked at the context of these incidents when making the decision to charge. This was particularly evident in one of the cases reviewed where the domestic violence victim was scheduled to testify against the predominant aggressor at a grand jury hearing the day after the fatal incident. The predominant aggressor was clearly trying to intimidate the victim and she feared for her life at the time of the fatal incident.

### Recommendation 11

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General provide county prosecutors domestic violence training concerning self-defense cases where a victim kills or severely injures the abuser. The training should include, but not be limited to: dynamics of domestic violence, understanding self-defense laws and the concept of a predominant aggressor. The training should be conducted by professionals with a demonstrated expertise in domestic violence and victim safety.

### Education for County Prosecutors: Charging Victims of Domestic Violence that Acted in Self Defense

In one of the cases reviewed by the Board where the victim killed the predominant aggressor, the police at the scene, who recognized the domestic violence victim, reviewed with the victim their rights under the Prevention of Domestic Violence Act, *N.J.S.A. 2c:25-21(3)*. The victim opted not to seek a restraining order at that time. Despite law enforcement initial assessment that the victim injured the predominant

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<sup>13</sup> Michigan, Clemency manual, Chapter Four, Section B3, last accessed on December 18, 2009: [http://www.umich.edu/~clemency/clemency\\_mnl/ch4.html](http://www.umich.edu/~clemency/clemency_mnl/ch4.html)

aggressor while an act of domestic violence was being perpetrated against her; she was charged with the homicide of the predominant aggressor who died two days later of her injuries. As stated below, through the Prevention of Domestic Violence Act, New Jersey recognizes that law enforcement should not charge a victim of domestic violence who uses force in self-defense, such as the case described above.

“No victim shall be denied relief or arrested or charged under this act with an offense because the victim used reasonable force in self defense against domestic violence by an attacker<sup>14</sup>.

The Board concludes that the same standard should be followed by county prosecutors when assessing whether an individual should be charged for a homicide. The Board asserts this can be achieved by establishing a routine screening process for all homicides where the victim-assailant relationship falls within the definition of domestic violence within the Prevention of Domestic Violence Act. This screening should be completed prior to charging decisions and be designed to determine if the fatal incident was a result of an act of self-defense.

Guidelines for prosecution of victims of domestic violence that kill the abuser in self-defense have been developed by the Battered Women’s Justice Project/Criminal Office and the National Clearinghouse for the Defense of Battered Women (see Appendix D). The County Prosecutors’ Association can adapt these guidelines to better ensure that victims are not charged for reasonable use of force in these cases.

### **Recommendation 12a**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General direct county prosecutors to follow the same standard as police officers in regards to charging victims who act in self-defense as stated in the Prevention of Domestic Violence Act, *N.J.S.A. 2c:25-21(3)* that states that “no victim shall be denied relief or arrested or charged under this act with an offense because the victim used reasonable force in self defense against domestic violence by an attacker.”

### **Recommendation 12b**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the County Prosecutors Association utilize the resource entitled, *When Battered Women Become Defendants: Suggested Guidelines for Prosecutors* compiled by the Battered Women’s Justice Project/Criminal Office and the National Clearinghouse for Defense of Battered Women. This resource can be used as a model for developing standards for prosecutors investigating homicides committed by those falling within the definition of victim under the New Jersey Prevention of Domestic Violence Act.

### **Review of Self Defense Laws by the Office of the Attorney General**

During the Board’s review of two cases where the victim killed the predominant aggressor, both victims utilized a vehicle as the instrumentality of self-defense. National research has shown a woman is more likely to kill the abuser during a confrontation, which is true of both cases reviewed by the Board; however, these two victims were charged for their actions. Further, during the investigation of these cases, the domestic violence context in which these incidents took place was not given sufficient weight in the charging and sentencing of these victims. As a result of these two cases, the Board recommends self-defense laws in this State be reviewed to ensure these laws treat domestic violence victims fairly.

### **Recommendation 13**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General review New Jersey self-defense laws and evaluate them as to their relevance and fairness to domestic violence victims. Furthermore, as a result of this study, the Board recommends legislation be drafted to change laws where appropriate. Finally, the Board recommends the Office of the Attorney General review self-defense laws as they relate to death by auto laws in cases where domestic violence is evident.

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<sup>14</sup> *N.J.S.A. 2c:25-21(3)*



### **Promote Ongoing Collaboration Between the Domestic Violence Assistant Prosecutor and all Assistant Prosecutors**

In cases reviewed where a domestic violence victim killed the abuser, a vehicle was used by both victims to protect themselves. Through the Board's review of these cases it became clear that neither case was assessed in the context of domestic violence. If a prosecutor with knowledge of and a level of expertise in domestic violence had reviewed these cases, the results may have been different.

County prosecutors' offices have designated domestic violence assistant prosecutors who have received specific training in domestic violence topics. This expertise can positively impact the understanding of other assistance prosecutors who may be unknowingly working with a victim of domestic violence.

### **Recommendation 14**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General facilitate annual education on domestic violence for all assistant prosecutors. Further, county prosecutors should promote ongoing collaboration between the domestic violence assistant prosecutors and all assistant prosecutors where the victim-assailant relationship falls within the legal definition of domestic violence as provided by *N.J.S.A. 2C:25-19*, the Prevention of Domestic Violence Act.

## Identifying Services for Domestic Violence Victims

### **Assistance to Victims of Domestic Violence That Have Been Charged with a Homicide**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board reviewed two intimate partner homicide cases that involved the victims killing the predominant aggressors in self-defense, which resulted in the victims being charged and sentenced for a serious crime. In these cases both of the victims waived their right to indictment and trial by jury and pled guilty. Through the Board's review of these cases, it was not documented if either of these individuals were in contact with a domestic violence advocate or a member of a domestic violence response team subsequent to being charged. Such contact could provide the victim with support, optional counseling and safety planning. The advocate could also offer resources and referrals to defense attorneys to assist them in handling these cases.

### **Recommendation 15**

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the New Jersey Coalition for Battered Women encourage local domestic violence programs, where feasible, to reach out and provide assistance to victims of domestic violence charged with homicide.

## Police and Court Response

### Police Use of Domestic Violence Response Team Volunteers

Many victims are traumatized by a domestic violence incident, note studies throughout the nation. Unfamiliar with the criminal justice system, a victim may not know what to do. At this critical time, it is important that a victim discuss the legal options they have: Should they stay or leave? Should they obtain a restraining order or not? How does the criminal process work? What should they do to keep themselves and their family safe? It is extremely important that the victim discuss these concerns with a neutral party—a trained domestic violence advocate or a trained domestic violence response team volunteer who is associated with a domestic violence service program and is not part of the law enforcement community.

All law enforcement agencies in New Jersey are required by *N.J.S.A. 2C:25-26b(3)* to establish or participate in a domestic violence crisis team. To assist agencies in forming a domestic violence crisis team, the Attorney General, in collaboration with the New Jersey Coalition for Battered Women, promulgated in 1997 a *Model Standard Operating Procedure on Domestic Violence Crisis Intervention Teams*. While this resource is available to victims of domestic violence, it appears to be underutilized. This model policy only requires that a crisis team member be available at headquarters if a victim agrees to meet with the team member. Anecdotal reports indicate some victims do not meet with a crisis team member when the domestic violence incident occurs during early morning hours because they do not want to inconvenience the volunteer team member.

The Board noted during its review of multiple cases there was no indication in the record the victim had been offered the services of a domestic violence response team (DVRT) volunteer when the police had responded to the domestic violence call.

### Recommendation 16

The New Jersey Domestic Violence Fatality and Near Fatality Review Board recommends the Office of the Attorney General, in collaboration with the New Jersey Coalition for Battered Women, revise the Model Standard Operating Procedure on Domestic Violence Crisis Intervention Teams to include criteria requiring a mandatory activation of a team member when certain criterion is met. Revisions to operating procedures should also require law enforcement officers responding to a domestic violence incident document in the officer's incident report if the victim was informed of the services that can be provided by a crisis response team and the victim's response to the offer of this service.

## RESPONSES TO RECOMMENDATIONS FROM 2006

In 2006, the Board published a recommendations report entitled, *Responding to the Victims*. This report contained the recommendations of the Board following case review of 125 domestic violence related homicide-suicides that occurred in New Jersey between 1994 and 1999. These 125 fatalities include 58 primary victims, 58 perpetrators and nine associated victims, including children. The sixteen recommendations contained in the report related to twelve broad areas identified as needing attention in the Board's efforts to reduce the incidence of domestic violence homicide-suicides in this state.

In an effort to best insure that recommendations from the 2006 recommendation report were implemented, the Board adopted a model used by other fatality review boards, which periodically report on the progress of each identified change agent in implementing recommendations. It has been the experience of these boards that the persons or agencies with the authority or influence to make change happen are very responsive to both the recommendations and the requests to report on progress towards implementation. A letter accompanied by a copy of the report was sent to each identified change agent asking them to implement a particular recommendation. This letter stated that the Board would contact each change agent to collect progress notes regarding implementation. It also informed each change agent that their progress notes would be included in the Board's next recommendations report. In addition to the initial letter sent to the change agents, the Board sent a second letter and placed follow-up phone calls.

This section contains the implementation notes or comments received from the change agents.

### **Recommendation 1a**

The Domestic Violence Fatality Review Board recommends that the DVFRB coordinate with the Division on Women, other government entities and the New Jersey Coalition for Battered Women towards the creation of a statewide public education campaign promoting awareness of domestic violence in a manner that is culturally sensitive and linguistically appropriate to the diverse communities within New Jersey. The campaign should include the following areas of concern:

- How to help victims of domestic violence and how to identify local resources
- Outreach specific to different cultures, ethnicities, and socio-economic groups
- Deliver the message that relationship separation is a dangerous time
- Suicide prevention and awareness within a domestic violence relationship
- The recognition of signs/factors associated with increased risk of lethality and danger
- Promotion of the domestic violence hotlines, in diverse languages, as a place to call in addition to the police

#### Response:

*Based on the Domestic Violence Fatality and Near Fatality Review Board's (Board) recommendation from its findings published in 2006, the 211<sup>th</sup> Legislature enacted legislation establishing a domestic violence public awareness campaign (C52:27D-43.36). The Board collaborated with the Department of Community Affairs' Center for Hispanic Policy, Research and Development and the Division on Women as well as the Puerto Rican Action Boar, a community based organization serving the Latino population in New Brunswick and Women Aware, the county domestic violence service program to conduct a pilot project focused on developing a social marketing campaign promoting awareness of domestic violence in the Latino community.*

*The Division on Women is also working with the Department of Children and Families, Division of Prevention and Community Partnership and the New Jersey Task Force on Child Abuse and Neglect on their statewide prevention plan which includes a domestic violence component.*

*Finally, in an effort to be more responsive to New Jersey's changing demographics the Division on Women is investigating the translation of their existing domestic violence awareness materials into languages other than English and Spanish.*

-The Honorable Joseph V. Doria, Jr., former Commissioner, Department of Community Affairs

### **Recommendation 1b**

The Domestic Violence Fatality Review Board recommends that domestic violence hotlines be given sufficient resources to enhance their ability to answer calls from:

- Individuals concerned about threats to harm another
- Callers that speak a language other than English
- Family and/or intimate partners of law enforcement personnel

The resources will allow the agencies to prepare for the higher volume of calls that will come from promoting its use and letting the public know about its expanded function. Agencies that work within specific cultural, religious, and linguistic communities could be valuable partners in this effort. Trainings provided to and collaborations with these organizations would facilitate the outreach and education process.

Response:

*The Department of Children and Families, Division of Prevention and Community Partnerships, Office of Domestic Violence Services works closely with the NJ Coalition for Battered Women (Coalition). Since the 2006 report, the Coalition and its Women of Diversity Task Force have launched a major cultural competency initiative, "Inclusion and Access: Tools to Support Culturally Competent Domestic Violence Programs". The Task Force has designed a training curriculum and are providing technical assistance to domestic violence programs to strengthen their capacity to effectively serve diverse communities. The Office of Domestic Violence Services provided financial support for the development of the training manual. Additionally, the Department incorporated the requirement for cultural competency plan in their 2007 Request for Proposals to expand Peace: A Learned Solution (PALS) program. Future contracts for DFC funded domestic violence service will require demonstrated efforts to pursue culturally competent service strategies and practices.*

*Domestic Violence programs and 24 hour hotlines have access to ATT language line services when a staff member is not able to translate. The Office of Domestic Violence Services will conduct a survey of DCF domestic violence services to identify existing hotline resources, and include training or bi-lingual staff needs. Furthermore this office is currently reaching out to national resources for model training curricula and practices designed to address the specialized needs and concerned of victims whose partners are law enforcement personnel.*

-The Honorable Kimberly S. Ricketts, Commissioner, Department of Children and Families

### **Recommendation 2a**

The Domestic Violence Fatality Review Board recommends that professional groups such as the New Jersey chapters of the American Medical Association, American Psychological Association, National Association of Social Workers and others develop standards for education and training on domestic violence for their respective members. Professional groups should collaborate with the New Jersey Coalition for Battered Women to ensure that the training is reflective of victim's needs and safety.

Response:

At the time of publication of this report the Board is still in the process of working with the New Jersey Psychological Association and the National Association of Social Workers, New Jersey Chapter in achieving this recommendation. The Board hopes to have implementation notes from these two organizations in the future.

The Board also requested implementation notes from the Medical Society of New Jersey. A representative from the Medical Society of New Jersey articulated to the Board in a phone interview that they did not believe recommendation 2a applied to their organization. Based on the wording of the recommendation the representative from the Medical Society of New Jersey thought that this issue should be referred to the National Association of Social Workers and the New Jersey Psychological Association. The Medical Society of New Jersey does offer continuing medical education programs but currently does not have one on domestic violence.

### **Recommendation 2b**

The Domestic Violence Fatality Review Board recommends that the Courts utilize professionals who are trained in the appropriate standards to do evaluations of batterers.

Response:

*The Judiciary is currently undertaking review and research concerning evaluations in domestic violence matters. Such review and research began when the Evaluation Subcommittee of the State Domestic Violence Working Group (SDVWG) was charged with identifying and addressing issues surrounding the collection and analysis of forensic information in domestic violence cases. As a result of such charge, the Evaluation Subcommittee made several recommendations which are embodied in a June 2007 Report (Report). In order to present things in context, it should be noted that N.J.S.A. 2C:25-29b (3) (a) provides that in a final restraining order hearing, the court shall consider a request by a custodial parent who has been subjected to domestic violence by a person with parenting time rights to a child in the parent's custody for an investigation or evaluation by the appropriate agency to assess the risk of harm to the child prior to the entry of a parenting time order. Such investigations or evaluations are commonly referred to as risk assessments. The Report recommendations include propositions about when risk assessments should be ordered, the actual risk assessment instrument itself and the qualifications of those completing the risk assessments. The Report was forwarded by the SDVWG to Judge Philip Carchman, the then Administrative Director of the Courts. Judge Carchman referred the Report and recommendations to the Conference of Family Presiding Judges for a review and recommendation. The Conference is currently in the process of reviewing the recommendations of the Report including the issue of the qualifications and training of those authorized to conduct such assessments. Before the recommendations are finalized, all of the recommendations will be provided to the SDVWG for review and comment.*

- Mr. Harry Cassidy, Assistant Director, Administrative Office of the Courts

### **Recommendation 3**

The Domestic Violence Fatality Review Board recommends that the New Jersey Legislature pass legislation mandating culturally sensitive domestic violence training & education to personnel on identifying patients in healthcare settings who may be victims of domestic violence. This legislation should include development of intervention protocols in all healthcare settings, including home healthcare.

Response:

Assemblyman Conaway, Chair of the Assembly Health and Human Services Committee, met with members of the Board regarding the creation of legislation mandating culturally sensitive domestic violence training and education to personnel on identifying patients in healthcare settings who may be victims of domestic violence. The Board looks forward to continuing to work with Assemblyman Conaway's office on this important legislation.

### **Recommendation 4a**

The Domestic Violence Fatality Review Board recommends that New Jersey begin evaluating the State's response to domestic violence by sponsoring Pilot Community Safety and Accountability Audits through the Division on Women.

Response:

*Through the auspices of the Domestic Violence Fatality Review Board, a pilot community safety and accountability audit was conducted by Gloucester County. While the Division on Women values the learnings from such audits, it does not have any planned at this time. The Division on Women will work in partnership with the Domestic Violence Fatality and Near Fatality Review Board to assess what is currently considered a best practice for capturing similar information given available resources. The enabling statute for the Board (C.52:27D-43.17d) allows the Board to conduct such audits.*

-The Honorable Joseph V. Doria, Jr., former Commissioner, Department of Community Affairs

### **Recommendation 4b**

The Domestic Violence Fatality Review Board recommends that county and local governments work with crisis intervention teams, domestic violence advocates at hospitals and other important system participants to identify shared resources. This will facilitate the development of a coordinated community response. There should be coordinated training of all levels of responders.

The Board contacted eleven Domestic Violence County Working Groups for their implementation notes regarding recommendation 4b; nine Domestic Violence County Working Groups responded:

Responses:

*The Burlington County Domestic Violence Working Group meets every other month and has incorporated local police, domestic violence advocates, and other important system participants. The Group has also opened meetings to representatives from Family Court staff, the judiciary, and women's shelters that provide speakers and trainings at each meeting.*

- Mr. Robert S. Van Gilst, Assistant County Prosecutor, Burlington County

*Throughout 2006 and 2007 the Prosecutor's Office along with representatives of the Camden County Women's Shelter, the CCPO Victim/Witness Unit, batterer's counseling treatment providers and CIT leaders presented day-long seminars covering all aspects of domestic violence to staff at Cooper Medical Center. In attendance were doctors, nurses, and technicians who were likely to have first contact with victims of domestic violence. A credit card size resource pamphlet was developed prior to the training and was provided to attendees for distribution to victims. The Prosecutor's Office, along with Women's Shelter representatives regularly conducts comprehensive training for law enforcement agencies on domestic violence issues. In 2007 the Camden County Domestic Violence Working Group assembled a list of fully vetted and approved therapists available to conduct Batterer's Counseling. Both Family Court and Probation Departments utilize this list for referrals when counseling is ordered. The Prosecutor's Office is also an active member in the DV Working Group which meets monthly.*

- Ms. Sally M. Smith, Assistant Prosecutor, Camden County

*The Cape May County Prosecutor's Office established a County Working Group on Domestic Violence and Bullying in December 2004. Now, annually with the coordination of the Office of Victim/Witness Advocacy, a county-wide conference is held on the topic of Domestic Violence/Bullying. The conference features guest speakers and programs involving the public, educators, social service agencies and law enforcement. With these efforts and partnership with the Coalition Against Rape and Abuse (CARA),*

*the Prosecutor's office provides training and community outreach. Office personnel also assist with the training of CARA Domestic Violence volunteers who accompany victims through the criminal justice process.*

-The Honorable Robert L. Taylor, Prosecutor, Cape May County

*The Cumberland County Prosecutor's Office has instituted the Office of Victim-Witness Advocacy with a trained victim advocate in crisis intervention. The office has also formed the Homicide Response Team (HRT). This team is comprised on an on-call victim advocate and an Assistant Prosecutor, who response to homicide cases on a 24/7 basis. Additionally there are three victim advocates who are bi-lingual in Spanish to address the needs of the community. The victim witness advocates correspond with the Victims of Crime Compensation Office for financial assistance to crimes involving domestic violence. The Office of Victim-Witness Advocacy also collaborates with the Cumberland County Women's Shelter. And advocate is present in the courtroom for most sessions regarding domestic violence to provide referral; assistance to litigants who are granted final restraining orders or counsel with those who wish to understand the domestic violence process. This office also provides an advocate to counsel those who wish to dismiss and educate them about the cycle of domestic violence and provide them with transportation if necessary. The Victim-Witness Coordinator is a member of the Domestic Violence Working Group and then Sexual Assault Nurse Examiner (SANE)/ Sexual Assault Response Team (SART).*

- The Honorable Darrell Fineman, Judge, Cumberland County Superior Court

*The Essex County Prosecutor's Office is a member of the Essex County Domestic Violence Working Group, which is collaboration of county and local government, crisis intervention teams, domestic violence advocates and other system participants. Since January 2008 there has been a subcommittee of this group that is designed to help identify issues with delivery services to victims as well as batterers. They conduct surveys to identify who provides what service and find new ways to eliminate duplications and streamline referrals. Also there is a Family Justice Center for Essex County that is being developed. This center would provide services for victims and their children.*

- The Honorable Paula T. Dow, Prosecutor, Essex County

*The Hunterdon County Prosecutor's Office has historically had a close working relationship with the domestic violence and sexual response partner, formerly Women's Crisis Services, now SAFE in Hunterdon. Three years ago the Prosecutor's Office along with SAFE created a one of a kind county wide response protocol for domestic violence intervention. This policy integrates police intervention coupled with crises intervention advocacy to provide the highest level of services to domestic violence victims. The Prosecutor's Office provides coordinated training for law enforcement and domestic violence counselors and integrates the services of the county medical center to provide comprehensive service for the victims.*

-The Honorable J. Patrick Barnes, Prosecutor, Hunterdon County

*The Middlesex County Prosecutor's Office is a supportive member of the County Domestic Violence Working Group, which meets quarterly. The group encompasses participation from affiliates of domestic violence intervention teams, county service provider organizations, court personnel, and members of local law enforcement members. The Prosecutor's Office to date has not included domestic violence advocates from local hospitals or health care providers, but will be implementing this recommendation. They will also be reaching out to representatives from local agencies*



*that work with mentally ill, developmentally disabled and physically disabled members of the community, so that they too may have a voice in the Working Group.*

- Ms. Jessica S. Oppenheim, Assistant Prosecutor, Middlesex County

*Morris County Domestic Violence Working Group has representatives from Family Court, local advocacy groups, Probation Department, Office of the Prosecutor, the Municipal Divisions, Judge and Division Manager, private attorneys, hospitals, and Victim Witness Unit at the Prosecutor's Office. The goal of the Working Group is to provide a coordinated community response and to provide training and education as needed to any group requesting it.*

- The Honorable Stephan C. Hansbury, Judge, Superior Court of New Jersey

*The Sussex County Prosecutor's Office Municipal Court Advocate has met with a group of volunteers for the Domestic Violence Response Team and discussed with the volunteers the services offered by the Victim Witness Unit and also educated the volunteers about the Domestic Violence Court project. In addition, Sussex County's Victim Witness Coordinator spoke to a class at the Sussex County Community College populated by college students and volunteers from the County's designated Domestic Violence Program. Further, both the SANE/SART Coordinator and the Victim Witness Coordinator spoke to police at the domestic violence police training about SANE/SART, VINE and other victim related topics. The Sussex County hospitals do not have domestic violence advocates, but the Victim Witness Coordinator spoke to a large number of mental health clinicians from local hospitals about sexual assault and victim services to heighten awareness of resources and services. A Victim Witness Advocate from Sussex County spoke to the Council of Services Agency about victim services.*

- The Honorable David J. Weaver, Prosecutor, Sussex County

*Sussex County has an active Domestic Violence Working Group that meets on a regular basis. Participants include, Family Court Staff and Judge, attorneys, Prosecutors, law enforcement and local service providers. This Sussex County office domestic violence agency, Domestic Abuse Services Inc. (DASI) is an integral member of this team. The agendas at the meetings include educational presentations by community providers that assist the group in keeping up to date on services available.*

- Ms. Barbara E. Anderson, Assistant Family Division Manager  
Superior Court of New Jersey, Morris/Sussex Vicinage

## **Recommendation 5**

The Domestic Violence Fatality Review Board recommends that the New Jersey Bar Association, in conjunction with the Institute for Continuing Legal Education, provide education that is sensitive to the needs of diverse cultural and ethnic groups in the immigrant community. Such education for attorneys and others in the legal community should include screening for domestic violence, counseling their clients about risk during separation and developing safety plans with their clients who need them. The educational programs should utilize the resources of experts in the field of domestic violence who can be recommended by the New Jersey Association of Domestic Violence Professionals and the New Jersey Coalition for Battered Women.

### **Response:**

At the time of publication of this report the Board is still in the process of working with New Jersey Bar Association in achieving this recommendation. The Board hopes to have implementation notes from them in the future.

*The New Jersey Institute for Continuing Legal Education will be hosting an Essentials of Domestic Violence seminar for their members on February 28, 2009. This seminar*

*will focus on the statute and the recent case law that has developed. A panel of experienced attorneys will be joined by a Presiding Family Part Judge, a counselor, with expertise in domestic violence matters, and a domestic violence advocate. This will teach members how to handle a domestic violence matter from both the plaintiff's and the defendant's perspectives. The seminar will also educate members on critical information on how to handle domestic violence cases while protecting the interests of their clients. This information includes: an overview of the Prevention of Domestic Violence Act, revisions to the Domestic Violence Manual, recent case law, Battered Women's Syndrome, harassment issues, civil restraining orders and much more. The seminar will also include a review of the Domestic Violence Hearing Officer Program.*

- Ms. Eileen O'Connor, Seminar Director, New Jersey Institute for Continuing Legal Education

## **Recommendation 6**

The Domestic Violence Fatality Review Board recommends that the Department of Education with Local Boards of Education conduct domestic violence training in the schools, giving faculty and staff the ability to identify children at risk of physical and emotional harm. All professionals who have student contact should be trained to look for indicators of domestic violence in the family, actively provide information and hand out brochures on resources for confidential assistance such as adolescent pregnancy programs and school-based intervention services for children with problems. The educational programs should utilize the resources of experts in the field of domestic violence who can be recommended by the New Jersey Association of Domestic Violence Professionals.

### **Response:**

The Board did receive a response from the New Jersey School Board Association, which stated that they felt that recommendation 6 should be addressed by the Commissioner of the Department of Education.

*The Commissioner's letter states that the Department of Education is unable to mandate domestic violence training for teachers and administrators due to the following regulation: The Required Professional Development for Teachers Regulations (N.J.A.C. 6A:9-15.2 (a)) states that all professional development opportunities must be delineated in an educator's Professional Improvement Plan and be consistent with the preamble and standards developed by the New Jersey Professional Teaching Standards Board and approved by the Commissioner of Education. All New Jersey public school teaching staff members are required to receive 100 clock hours of professional development in every five year cycle of instruction.*

*Additionally, state law N.J.S.A. 18A:6-111, requires all public school teachers complete at least two hours of instruction in suicide prevention as part of the required 100 hours of professional development.*

*The letter goes on to explain that it remains the local district's decision as to what issues and topical areas will be addressed in the remaining 98 hours of teacher professional development. Further, the Department of Education is committed to providing a safe and supportive environment for students, and would be interested in collaborating with Board in developing materials and resources that could be used for school district staff training. The Commissioner refers the Board to the Coordinator of Health and Physical Education to further discuss a future partnership.*

- Commissioner Lucille Davy, Department of Education

## **Recommendation 7**

The Domestic Violence Fatality Review Board recommends that county and local government agencies have information and resources available in languages that reflect the ethnic make-up of their community thereby facilitating communication in the language most comfortable to those involved in the case. Government and social service agencies should work with immigrant communities on sources of intervention and assistance. The New Jersey Coalition for Battered Women and its member agencies should create an outreach project geared towards these underserved communities and teach individuals about the dynamics of domestic violence.

The Board contacted all twenty-one County Board of Social Services and contacted eleven Domestic Violence County Working Groups for their implementation notes regarding recommendation 7; twelve County Board of Social Services and nine Domestic Violence County Working Groups responded:

### **Responses from County Board of Social Services:**

*The Bergen County Board of Social Services has a special resource room in which clients wait, and there are numerous printed materials including information printed in English, Spanish, Arabic and Polish. In addition whenever a victim of domestic violence comes in they are seen by a Domestic Violence Specialist. These Specialists are trained by the state and include several staff members that are bi-lingual in Spanish. The clients are then referred to Alternatives to Domestic Violence (ADV) in Hackensack. The Board staff also refers clients to Shelter Our Sisters in Bergen County and Strengthen Our Sisters in Passaic County as a shelter and hotline resource. Additionally the Board maintains a 24 hour homeless hotline and in the case of a caller reporting domestic violence, the staff is prepared with materials and referrals.*

- Ms. Diane Baillif, Administrative Supervisor of Social Work, Bergen County Board of Social Services

*To ensure that all individuals receive the services they need and are eligible for, the Burlington County Board of Social Services utilizes bi-lingual staff as well as a translation services program. The Board also has a long working history with the Servicios Latinos de Burlington County, which helps advance the county's Hispanic population's interest as well as Providence House, the county's domestic violence shelter.*

- Mr. Daniel Boas, Director, Burlington County Board of Social Services

*The Camden County Board of Social Services works closely with the Women's Center in Camden. Workers at the Board refer victims for services such as housing assistance and counseling to the Center. Workers at the Board also are trained on the issues and complexities of family violence. The Board provides all customers with the brochure "Safety, For You and Your Family", which is available in both English and Spanish. This brochure also contains information and the number for the New Jersey Statewide Hotline.*

- Ms. Patricia Thomas, Training Supervisor, Camden County Board of Social Services

*As part of their Family Violence Option Initiative (FVO), the Cape May County Board of Social Services has "safety brochures" in English and Spanish that are made available in the restrooms, lobby, reception area, interview desks, and also when interacting with staff. The Board also offers a Spanish translator, and has an additional bi-lingual (Spanish) Social Worker as a FVO representative.*

- Ms. Donna Groome, Supervisor, Community Programs Unit and Adult Protective Services  
Cape May County Board of Social Services

*The Cumberland County Board of Social Services utilizes forms and information in both English and Spanish, which reflects the make up of the county. Additionally, the Board's Domestic Violence Liaisons and workers have bi-lingual titles in English and Spanish and they are proficient in both languages. The Board also makes a point to maintain a presence at all community events and health fairs, where they distribute information on the Family Violence Option Program. At these events the Board always sends at least one bi-lingual worker. The Cumberland County Board of Social Services works closely with staff from the Women's Center, located in Cumberland County as a partner in Domestic Violence identification and for providing services for victims.*

- Ms. Patricia C. Kears, Director, Cumberland County Board of Social Services

*Gloucester County Division of Social Services has domestic violence brochures in both English and Spanish and recently has trained more staff to help deal with the workload.*

- Mr. Ed Smith, Superintendent, Gloucester Division of Social Services

*The Hudson County Division of Welfare expressed in their response to the Board that their agency will enthusiastically assist with the implementation of this recommendation. The Hudson County Division of Welfare has been involved in disseminating information to the community since the advent of New Jersey's Family Violence Option in the administration of the TANF cash assistance program in 2002. They have on staff social workers and case managers who have been trained in interviewing and providing information and referral to victims of Family Violence. Any member of the Hudson County community, including employees, can enter the Hudson County Department of Family Services and speak to a Family Violence Option worker about safety planning and family violence victim services available through their partnership with the County designated Domestic Violence Program, Women Rising; in addition, rape care services are available through the County designated Rape Crisis Center, Christ Hospital of Jersey City. The Division's Family Violence Option Representatives provide information and referral in Spanish, English and Arabic, and can provide interpretation services upon the request of the customer via "The International Institute," a community based organization active in providing services to the immigrant community of Hudson County. Additionally, the New Jersey Department of Human Services' pamphlet "Safety for You and Your Family" is made available to the Hudson County Department of Family Services' Food Stamp, Cash Assistance, NJ FamilyCare, and Information and Referral customers at all points of entry. The Hudson County Department of Family Services currently distribute this pamphlet in Spanish and English; however, they express a need for an Arabic and Hindi Version.*

- Ms. Angelica M. Harrison, Director, Division of Welfare, Hudson County

*In Hunterdon County, the lead social service agency dealing with domestic violence and sexual assault is the non-profit SAFE in Hunterdon. SAFE in Hunterdon provides service and counseling for Spanish speaking individuals and has pamphlets available in both English and Spanish. The pamphlets are prominently displayed and available in the lobby of the Hunterdon Division of Social Services. The Division also has a bi-lingual Family Service worker on staff. For individuals that can not communicate in English or Spanish, the Division of Social Services is able to utilize supplementary translation and interpretation services to facilitate effective communication.*

- Ms. Pamela Pontrelli, Administrator, Hunterdon County Division of Social Services

*To deal with domestic violence in a culturally competent manner the Morris County Department of Human Services (MCDHS) works closely with the local domestic violence program, Jersey Battered Women's Services (JBWS). Through various partnerships, offering brochures in about domestic violence in a variety of languages, and hiring Spanish speaking staff, JBWS has been active in responding to the needs of immigrants and victims. The MCDHS works with JBWS to make these brochures available in key locations for appropriate communities.*

- Ms. Mary Jo Buchanan, Director, Morris County Department of Human Services

*The Salem County Board of Social Services provides bi lingual staff to assist with all programs administered through the agency. The staff at the Board also attends family violence training. The Board works closely with the Salem County Women's Services (SCWS), the domestic violence agency and shelter in the county. Any discovery of possible or suspected domestic violence by the Board results in a referral to the SCWS.*

- Ms. Kathleen Lockbaum, Director, Salem County Board of Social Services

*The Sussex County Division of Social Services (SCDSS) provides all applications forms in Spanish. The reception room at the Division has domestic violence informational pamphlets about services at SCDSS and at the local shelter. The reception area also has business cards with the local domestic abuse and sexual assault hotline number. In order to accommodate non- English speaking applicants, the Division utilizes a translation service through Language Line when needed.*

- Ms. Carol A. Novrit, Director, Sussex County, Division of Social Services

*The Division of Temporary Assistance and Social Services (TASS) has a wide variety of program brochures and application materials available to all clients in both Spanish and English. TASS also contracts with a language interpreter service that they use on a regular basis to assist clients unable to communicate with the staff in English. This service may be authorized by a client if they are unable to bring a family member or friend to translate information to their meeting with TASS staff. This service is accessed via the TASS phone lines and assistance is available in over twenty two languages. There is a nominal fee charged per minute for this service.*

- Ms. Lorraine Scheibener, Division Director, Warren County  
Division of Temporary Assistance and Social Services

**Responses from the Domestic Violence County Working Groups:**

*The victim witness unit of the Prosecutor's Office and the court advocates from Providence House have domestic violence literature that is available in English and Spanish.*

- Mr. Robert S. Van Gilst, Assistant County Prosecutor, Burlington County

*The Camden County Prosecutor's Office has pamphlets on domestic violence and resources available in both Spanish and English. The office also has DV advocates available that speak Spanish.*

- Ms. Sally M. Smith, Assistant Prosecutor, Camden County

*The Cape May County Prosecutor's Office partners with the County Detective office, which employs two staff detectives that are bi-lingual in Spanish, which is a significant make up of the Cape May County population. These detectives are available to assist victims who are not fluent in English.*

- The Honorable Robert L. Taylor, Prosecutor, Cape May County

*Cumberland County has a large Latino population and their needs are met by two full time Spanish interpreters present in the Cumberland County Courthouse. The Courts also provides translation services through telephone interpreters for 94 different languages. Additionally the County has many of the domestic violence forms translated to Spanish.*

- Honorable Darrell Fineman, Judge, Cumberland County Superior Court

*The Essex County Prosecutor's Office Victim/Witness Unit has advocates who speak Spanish, Portuguese, French, and Haitian-Creole in addition to English. These advocates are available to translate and advise during the investigative process and in Superior and Municipal court proceedings. Domestic Violence literature is available in English or Spanish.*

- The Honorable Paula T. Dow, Prosecutor, Essex County

*In the past two years the Prosecutor's office has hired bi-lingual investigators, and a bi-lingual victim witness advocate to provide for victims whose primary language is Spanish. The office has also produced victim resource material in English and in Spanish. SAFE in Hunterdon also generates materials in English and Spanish to better serve victims of domestic violence in the diverse community.*

- The Honorable J. Patrick Barnes, Prosecutor, Hunterdon County

*Materials at the Prosecutor's Office regarding domestic violence programs and resources in a variety of languages most notably Spanish, Hindi and Arabic. The office also works closely with Women Aware, Manavi, and Women Helping Women.*

- Ms. Jessica S. Oppenheim, Assistant Prosecutor, Middlesex County

*The Superior Court offers forms for Domestic Violence in both Spanish and English. The court can obtain interpreter services in virtually any language encountered in the Morris County community, and uses the Jersey Battered Women's Service for outreach.*

-The Honorable Stephan C. Hansbury, Judge, Superior Court of New Jersey

*The Sussex County office has Pro Se materials available in other languages and the court has interpreters available for litigants. Domestic Abuse Services Inc. (DASI) also has pamphlets available in Spanish.*

- Ms. Barbara E. Anderson, Assistant Family Division Manager  
Superior Court of New Jersey, Morris/Sussex Vicinage

## **Recommendation 8a**

The Domestic Violence Fatality Review Board recommends that the New Jersey Workplace Violence Taskforce develop legislation that will require businesses in New Jersey to develop and adopt workplace domestic violence policies and safety protocols. These protocols and policies should be culturally sensitive.

Response:

At the time of publication of this report the Board is still in the process of working with our change agent partners in achieving this recommendation. The Board hopes to have implementation notes from them in the future.

### **Recommendation 8b**

The Domestic Violence Fatality Review Board recommends that the New Jersey Coalition for Battered Women and its member programs provide culturally sensitive domestic violence awareness materials, including written resources and training, for local corporations and their Employment Assistance Programs, as well as small businesses in their counties.

Response:

*The New Jersey Coalition for Battered Women (NJCBW) State Office conducted a brief survey of the NJ domestic violence programs' educational activities with NJ worksites. Although programs provide hundreds of presentations to first responders often at their worksite each year, there is currently a relatively low level of activity specifically to raise domestic violence awareness of general employers and employees. Most programs reported limited activity of perhaps 2-4 workplace contacts per year. These range from participating in employer fairs, to "lunch and learn" speaking opportunities at major department stores, to a presentation in a nursing home where a worker had been killed by her partner. One program assisted a local hospital in developing workplace safety policies. One program reports that despite general offers of trainings to workplaces there are very few requests for them. Another program reports that despite actively reaching out to major corporations and offering free domestic violence awareness presentations, few corporations request such trainings.*

*The NJCBW's analysis of the low level of domestic violence education/training in the workplace is that employers generally have no incentive to request such education. Unless they have a tragedy in their workplace, NJCBW has found that most employers do not feel that this education is their responsibility. The Coalition believes that in order for requests for training to increase, the State must offer some type of incentives for employers. Until such incentives are created NJCBW will strive to focus more attention on this matter and reach out to more employers during the year.*

- Ms. Barbara Price, former Executive Director, New Jersey Coalition for Battered Women

### **Recommendation 9**

The Domestic Violence Fatality Review Board recommends that a committee of the Board identify and forward recommendations regarding homicide, homicide-suicide and suicide case investigation to the Attorney General. The purpose of the recommendations is to enhance the fatality review process by establishing a follow-up policy or protocol for conducting a more detailed, culturally sensitive investigation following police investigation of domestic violence homicides

Response:

*The New Jersey Domestic Violence Fatality and Near Fatality Review Board has formed an ad-hoc committee to identify recommendations regarding homicide, homicide-suicide and suicide case investigation to the Attorney General. The committee is currently working on recommendations to enhance the fatality review process through detailed culturally sensitive investigation of domestic violence homicides. Once this protocol is completed it will be forwarded to the Office of the Attorney General.*

-The New Jersey Domestic Violence Fatality and Near Fatality Review Board

### **Recommendation 10**

The Domestic Violence Fatality Review Board recommends that the Law Enforcement committee of the Board continue to develop its model policy and protocol for the response to and investigation of acts of domestic violence involving law enforcement personnel. This model policy and protocol will be forwarded to the Attorney General for review and implementation

Response:

The model policy entitled, *Model Policy on Domestic Violence in the Law Enforcement Community* was completed and forwarded to the Office of the Attorney General in 2006. The policy has been reviewed by the Attorney General, the office staff and the county prosecutors and as a result of this policy the Attorney General in December 2009 issued a model police department policy for handling domestic violence incidents that involve law enforcement officers.

### **Recommendation 11**

The Domestic Violence Fatality Review Board recommends that the Attorney General develop a firearm purchaser identification card, with a photo and electronic information transfer capability. The card must be supported by a network that provides for the instantaneous revocation of a cardholder's purchasing privileges. This network should allow the Prosecutor's office and appropriate agencies within the Criminal Justice system to submit instant entry of the revocation of the firearms license into the Division of State Police firearms licensing system. Until the system can be developed, the Attorney General should promulgate directives requiring the immediate faxing of court orders revoking firearms privileges to the Division of State Police firearms unit. Additionally, state statutes should be amended to require private sellers of firearms to obtain verification from the State Police that the status of a buyer's firearms purchasing privilege is valid at the time of sale. State statutes should also be amended to make it a crime for private sellers to fail to comply with this requirement.

Response:

At the time of publication of this report the Board is still in the process of working with our change agent partners in achieving this recommendation. The Board hopes to have implementation notes from them in the future.

### **Recommendation 12**

The Domestic Violence Fatality Review Board recommends that the Attorney General, the State Police and the Administrative Office of the Courts work collaboratively to develop procedures to require that when a person is disqualified from possessing a firearm, applications are made to revoke firearms permits/ID cards, firearms are seized, and any revocation information is immediately provided to State police for entry into the firearms database.

Response:

At the time of publication of this report the Board is still in the process of working with our change agent partners in achieving this recommendation. The Board hopes to have implementation notes from them in the future.



# APPENDIX A

## NEW JERSEY ACTS OF DOMESTIC VIOLENCE

### N.J.S.A.2C:25-19

#### **2C:25-19. Definitions**

As used in this act:

a. "Domestic violence" means the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor:

- (1) Homicide N.J.S.2C:11-1 et seq.
- (2) Assault N.J.S.2C:12-1
- (3) Terroristic threats N.J.S.2C:12-3
- (4) Kidnapping N.J.S.2C:13-1
- (5) Criminal restraint N.J.S.2C:13-2
- (6) False imprisonment N.J.S.2C:13-3
- (7) Sexual assault N.J.S.2C:14-2
- (8) Criminal sexual contact N.J.S.2C:14-3
- (9) Lewdness N.J.S.2C:14-4
- (10) Criminal mischief N.J.S.2C:17-3
- (11) Burglary N.J.S.2C:18-2
- (12) Criminal trespass N.J.S.2C:18-3
- (13) Harassment N.J.S.2C:33-4
- (14) Stalking P.L.1992, c.209 (C.2C:12-10)

When one or more of these acts is inflicted by an unemancipated minor upon a person protected under this act, the occurrence shall not constitute "domestic violence," but may be the basis for the filing of a petition or complaint pursuant to the provisions of section 11 of P.L.1982, c.77 (C.2A:4A-30).

b. "Law enforcement agency" means a department, division, bureau, commission, board or other authority of the State or of any political subdivision thereof which employs law enforcement officers.

c. "Law enforcement officer" means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this State.

d. "Victim of domestic violence" means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present or former household member. "Victim of domestic violence" also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. "Victim of domestic violence" also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

e. "Emancipated minor" means a person who is under 18 years of age but who has been married, has entered military service, has a child or is pregnant or has been previously declared by a court or an administrative agency to be emancipated.

L.1991,c.261,s.3; amended 1994,c.93,s.1; 1994,c.94,s.1.

**APPENDIX B**  
**GOVERNING LEGISLATION**  
**N.J.S.A. 52-27D-43.17**

**CHAPTER 225**

**AN ACT** concerning domestic violence and supplementing Title 52 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.52:27D-43.17a Definitions relative to domestic violence.

1. As used in this act:

"Board" means the Domestic Violence Fatality and Near Fatality Review Board established pursuant to this act.

"Domestic violence-related fatality" or "fatality" means a death which arises as a result of one or more acts of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19).

"Near fatality" means a case in which a victim of domestic violence is in serious or critical condition, as certified by a physician.

"Panel" means the Panel to Study Domestic Violence in the Law Enforcement Community established pursuant to section 9 of this act.

C.52:27D-43.17b Domestic Violence Fatality and Near Fatality Review Board.

2. There is established the Domestic Violence Fatality and Near Fatality Review Board. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is established within the Department of Community Affairs, but notwithstanding the establishment, the board shall be independent of any supervision or control by the department or any board or officer thereof.

The purpose of the board is to review the facts and circumstances surrounding domestic violence-related fatalities and near fatalities in New Jersey in order to identify their causes and their relationship to government and nongovernment service delivery systems, and to develop methods of prevention. The board shall: review trends and patterns of fatalities and near fatalities; evaluate the responses of government and nongovernment service delivery systems to fatalities and near fatalities and offer recommendations for improvement of these responses; identify and characterize high-risk groups in order to develop public policy; collect statistical data, in a consistent and uniform manner, on the occurrence of fatalities and near fatalities; and improve collaboration between State and local agencies and organizations for the purpose of developing initiatives to prevent domestic violence.

C.52:27D-43.17c Membership of board, terms, compensation.

3. a. The board shall consist of 21 members as follows:

(1) the Commissioners of Community Affairs, Human Services and Health and Senior Services, the Director of the Division on Women in the Department of Community Affairs, the Attorney General, the Public Defender, the Superintendent of the State Police, the Supervisor of the Office on the Prevention of Violence Against Women in the Department of Community Affairs established pursuant to Executive Order No. 61 (1992), the State Medical Examiner, the Program Director of the Domestic Violence Fatality Review Board established pursuant to Executive Order No. 110 (2000) and the Executive Director of the New Jersey Task Force on Child Abuse and Neglect, or their designees, who shall serve ex officio;

(2) eight public members appointed by the Governor who shall include a representative of the County Prosecutors Association of New Jersey with expertise in prosecuting domestic violence cases, a representative of the New Jersey Coalition for Battered Women, a representative of a program for battered women that provides intervention services to perpetrators of acts of domestic violence, a representative of the law enforcement community with expertise in the area of domestic violence, a psychologist with expertise in the area of domestic violence or other related fields, a licensed social worker with expertise in the area of domestic violence, a licensed health care professional knowledgeable in the screening and identification of domestic violence cases and a county probation officer; and

(3) two retired judges appointed by the Administrative Director of the Administrative Office of the Courts, one with expertise in family law and one with expertise in municipal law as it relates to domestic violence.

b. The public members of the board shall serve for three-year terms, except that of the public members first appointed, four shall serve for a period of one year, three shall serve for a period of two years and two shall serve for a period of three years. The members shall serve without compensation, but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties and within the limits of funds appropriated for this purpose. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made.

c. The board shall select a chairperson from among its members who shall be responsible for the coordination of all activities of the board.

d. The board is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of reviewing a case pursuant to the provisions of this act.

e. The board may seek the advice of experts, such as persons specializing in the fields of psychiatric and forensic medicine, nursing, psychology, social work, education, law enforcement, family law, academia, military affairs or other related fields, if the facts of a case warrant additional expertise.

#### C.52:27D-43.17d Duties of board.

##### 4. The board shall:

##### a. Identify domestic violence-related fatalities that meet the following criteria:

(1) The manner of death is homicide, and the deceased was the spouse, former spouse, present or former household member of the perpetrator of the homicide or person with whom the perpetrator has had a dating relationship;

(2) The manner of death is suicide, and the deceased was a victim of one or more acts of domestic violence committed by a spouse, former spouse, present or former household member or person with whom the victim has had a dating relationship;

(3) The manner of death is homicide or suicide, and the deceased is the perpetrator of a homicide committed against a spouse, former spouse, present or former household member or person with whom the perpetrator has had a dating relationship;

(4) The manner of death is homicide or suicide, and the deceased is the child of either a victim of a homicide committed by a spouse, former spouse, present or former household member or person with whom the victim has had a dating relationship, or the perpetrator of the homicide;

(5) The manner of death is homicide or suicide, and the deceased is the child of a victim of a homicide committed by a spouse, former spouse, present or former household member or person with whom the victim has had a dating relationship and the perpetrator of the homicide;

(6) The deceased is a law enforcement officer, health care professional, representative of any agency or organization that provides services to victims of domestic violence or an emergency medical technician or paramedic who died while responding to an incident of domestic violence;

(7) The manner of death is homicide or suicide, and the deceased is a family member of either a victim of a homicide committed by a spouse, former spouse, present or former household member or person with whom the victim has had a dating relationship, or the perpetrator of the homicide;

(8) The manner of death is homicide or suicide, and the deceased is the perpetrator of a homicide of a family member; or

(9) The manner of death is homicide or suicide related to an incident of domestic violence, and the deceased is not a family member, spouse, former spouse, present or former household member or person with whom the victim has had a dating relationship.

As used in this subsection, "family member" means a person 16 years of age or older related to another person by blood, marriage or adoption, including: a sibling, parent, stepsibling or stepparent of the person or his spouse; and a person whose status is preceded by the words "great" or "grand."

b. Identify near fatalities when information available to the board indicates that domestic violence may have been a contributing factor.

c. Collect and review death certificates, autopsy, investigative, police, medical, counseling, victim service and employment records, child abuse and neglect reports, survivor interviews, surveys, and any other information the board deems necessary and appropriate in determining the cause of a domestic violence-related fatality or near fatality.

d. Make a determination whether a domestic violence-related fatality or near fatality may have been prevented with improvements to the policies and procedures used by health care, social service, law

enforcement, governmental or nongovernmental agencies and organizations to provide services to victims of domestic violence and their families.

e. Implement a Statewide public education campaign to promote awareness among the public, community organizations, law enforcement agencies and health care providers on issues relating to the prevention of domestic violence.

f. Conduct a Statewide domestic violence safety and accountability audit. The audit shall include a systematic analysis of intra agency and interagency policies and procedures used by:

(1) law enforcement agencies and the court system when investigating and prosecuting cases of domestic violence-related fatalities and near fatalities, as appropriate; and

(2) State and local agencies and organizations when providing services to victims of domestic violence.

C.52:27D-43.17e Authority of board.

5. The board is authorized to:

a. Subpoena any records, other than criminal investigatory records pertaining to a criminal investigation in progress, concerning a domestic violence-related fatality or near fatality and other records, which may be deemed pertinent to the review process and necessary for the formulation of a conclusion by the board;

b. Apply for and accept any grant of money from the federal government, private foundations or other sources, which may be available for programs related to the prevention of domestic violence; and

c. Enter into contracts with individuals, organizations and institutions necessary for the performance of its duties under this act.

C.52:27D-43.17f Determination of which incidents receive full review; annual report to Governor, Legislature.

6. a. The board shall determine which domestic violence-related fatalities and near fatalities shall receive its full review.

The board may establish local, community-based teams or committees to compile specific information regarding the fatalities and near fatalities selected by the board for its review.

b. Each team or committee shall include, at a minimum, a person experienced in prosecution and local law enforcement investigation, a medical examiner, a physician with expertise in the area of domestic violence, a domestic violence specialist certified by the New Jersey Association of Domestic Violence Professionals and one representative each of a legally recognized military organization with expertise in domestic violence and Legal Services of New Jersey to advise on areas relevant to their agencies. As necessary to perform its functions, each team or committee may add additional members if the facts of a case warrant additional expertise.

c. Each team or committee shall submit to the chairperson of the board a report containing the information the team or committee compiled regarding each domestic violence-related fatality or near fatality and make recommendations for improvements or needed changes concerning the provision of services to victims of domestic violence.

d. The board shall review the reports submitted by each team or committee pursuant to subsection c. of this section and issue an annual report to the Governor and the Legislature, which includes the number of cases reviewed and specific non-identifying information regarding cases of particular significance. The board shall also include in the report recommendations for systemwide improvements in services to prevent domestic violence-related fatalities and near fatalities.

C.52:27D-43.17g Accessibility of records.

7. a. The records compiled by the board, including all investigatory findings, statistical data and information gathered pursuant to subsection c. of section 4 of this act, shall not be subject to discovery, but may be used by the chairperson of the board to refer an individual case, including the board's deliberations and conclusions, to the extent necessary, to an appropriate agency to investigate or to provide services.

b. The records compiled by the board shall not be subject to subpoena or admissible as evidence in any action or proceeding in any court, nor shall a person or entity authorized by the board to have access to the records pursuant to this act be compelled to testify with regard to the records.

c. Except as provided in subsection a. of this section, the deliberations and conclusions of the board related to a specific case shall be confidential and shall not be deemed a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.). Summary records that are

prepared by the board and the teams or committees on each reported case shall not contain any information that would identify the victim of a domestic violence related fatality or near fatality.

C.52:27D-43.17h Immunity from civil liability.

8. A member of the board, a member of a team, committee or panel established pursuant to this act or an employee of the board shall not be held liable for any civil damages as a result of any action taken or omitted in the performance of his duties pursuant to this act.

C.52:27D-43.17i Panel to Study Domestic Violence in the Law Enforcement Community.

9. a. The board shall establish a Panel to Study Domestic Violence in the Law Enforcement Community. The purpose of the panel is to: examine issues associated with incidents of domestic violence perpetrated by law enforcement officials and, as appropriate, specific cases; evaluate the responses of State and local agencies and organizations to incidents of domestic violence perpetrated by law enforcement officials; and develop strategies to prevent domestic violence-related fatalities and near fatalities among law enforcement officials and their families.

The panel shall examine issues, which shall include, but are not limited to:

(1) the education of law enforcement officials on the consequences of committing acts of domestic violence;

(2) the provision of support services to law enforcement officials in high-risk situations, including cases of separation and divorce;

(3) the provision of support services to victims of domestic violence who are the family members of law enforcement officials, including information about and referral to community organizations that provide medical, mental health and legal services to victims of domestic violence; and

(4) the development of Statewide policies and procedures regarding the identification and disposition of cases of domestic violence perpetrated by law enforcement officials.

b. The panel shall be composed of volunteer members, including representatives from the law enforcement community and experts in the field of domestic violence.

c. The members of the panel:

(1) shall not disclose to any person or government official any identifying information about a specific case of domestic violence perpetrated by a law enforcement official with respect to which the panel is provided information; and

(2) shall not make public other information unless authorized by State statute.

d. The panel shall have access to information necessary to carry out its functions. The panel is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of effectuating the provisions of this act.

e. The panel shall prepare and make available to the public and the board, on an annual basis, a report containing a summary of its activities.

f. The panel may receive grants and other funds made available from any governmental, public, private, nonprofit or for-profit agency, including funds made available under any federal or State law, regulation or program.

C.52:27D-43.17j Regulations.

10. The board shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the operation of the board, procedures for conducting reviews of cases involving domestic violence fatalities and near fatalities, the establishment of the panel pursuant to section 9 of this act and other matters necessary to effectuate the purposes of this act.

11. This act shall take effect immediately.

Approved January 9, 2004.

# APPENDIX C

## CONFIDENTIALITY AGREEMENT

### New Jersey Domestic Violence Fatality & Near Fatality Review Board Confidentiality Agreement

The purpose of the New Jersey Domestic Violence Fatality & Near Fatality Review Board (“Board”) is to engage in thorough quantitative and qualitative reviews of domestic violence-related fatalities and near fatalities in order to better understand domestic violence and resulting deaths, and in order to work towards better intervention and prevention efforts. This purpose requires case-specific sharing of records and other information, as provided by the governing authority of NJSA 52:27D- 43.17, which states:

#### **52:27D-43.17d Duties of board.**

c. Collect and review death certificates, autopsy, investigative, police, medical, counseling, victim service and employment records, child abuse and neglect reports, survivor interviews, surveys, and any other information the board deems necessary and appropriate in determining the cause of a domestic violence-related fatality or near fatality.

#### **52:27D-43.17e Authority of board.**

5. The board is authorized to:

a. Subpoena any records, other than criminal investigatory records pertaining to a criminal investigation in progress, concerning a domestic violence-related fatality or near fatality and other records, which may be deemed pertinent to the review process and necessary for the formulation of a conclusion by the board;

Sharing such documentation is crucial and essential to the Board’s mission. First, complete case files and records help the Board to understand the full scope of the history of the lives of victims and perpetrators – gaps in information only hinder the Board’s ability to understand the totality of domestic violence and make effective recommendations. Second, full case files reveal important information regarding the various systems involved with victims and/or perpetrators of domestic violence and the many opportunities various systems had in each case for identifying and intervening in the domestic violence. Lastly, sharing information regarding a case ensures that any recommendations this Board makes are well-founded, promote victim safety and offender accountability, and ensure that they are based on complete versus partial information or erroneous assumptions.

Although this Board has legislative authority and subpoena power, the Board acknowledges that trust and voluntary cooperation between Board members, or the Board and outside parties involved with the DVFNFRB, are crucial for individuals to feel confident that any information they provide for a case review will be kept confidential and used only for the purposes of the Board as stated above. To that end, the governing statute provides for confidentiality, stating:

#### **52:27D-43.17g Accessibility, confidentiality of records.**

7. a. The records compiled by the board, including all investigatory findings, statistical data and information gathered pursuant to subsection c. of section 4 of this act, shall not be subject to discovery, but may be used by the chairperson of the board to refer an individual case, including the board’s deliberations and conclusions, to the extent necessary, to an appropriate agency to investigate or to provide services.

b. The records compiled by the board shall not be subject to subpoena or admissible as evidence in any action or proceeding in any court, nor shall a person or entity authorized by the board to have access to the records pursuant to this act be compelled to testify with regard to the records.

c. Except as provided in subsection a. of this section, the deliberations and conclusions of the board related to a specific case shall be confidential and shall not be deemed a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.). Summary records that are prepared by the board and the teams or committees on each reported case shall not contain any information that would identify the victim of a domestic violence-related fatality or near fatality.

Board members and other individuals who may come in contact with information from the case files as part of their work with the Board must also sign and abide by Confidentiality Agreements in order to take personal responsibility for confidentiality and to promote trust among Board members. Therefore, as a participant with the DVFNFRB:

**I agree to keep confidential all identifying information secured in this review process. I agree that the information discussed will not be used for reasons other than for which it was intended. No material will be taken from the case reviews, with the exception of the initial dissemination of a case for review preparation. I agree to take all necessary precautions to keep case files confidentially secured when reading a case file outside of a Board meeting. I understand that if I violate this confidentiality agreement, I will be relieved from serving on the Board.**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## APPENDIX D

# SUGGESTED GUIDELINES FOR PROSECUTORS

**When Battered Women become Defendants:  
Suggested Guidelines for Prosecutors**

Compiled by the  
Battered Women's Justice Project/Criminal Office  
and the  
National Clearinghouse for the Defense of Battered Women

These guidelines are based on information gathered  
during a meeting of prosecutors and advocates  
sponsored by the  
National Clearinghouse for the Defense of Battered Women  
Minneapolis, MN  
October 2003

1. Prosecutors should establish routine procedures so that they can quickly obtain sufficient information about both defendant and complainant to ascertain the context within which the incident occurred (history of violence in relationship or against other partners, purpose and intent of violence, meaning to victim, impact on victim)<sup>15</sup>.

Prosecutors should obtain previous police reports, 911 tapes, and protection order history. These may be useful tools in determining the context in which the incident occurred. However, it is important to note that lack of criminal or civil legal intervention does not mean that battering has not occurred in the past. Additionally, an increasing number of batterers are using the criminal legal system against their partners and they are the ones calling the police, doing things (such as self-inflicting wounds) in an effort to get their partners arrested, and taking out protection orders against their partners. As is true with all information gathered for a case, it needs to be fully explored and evaluated.

2. Prosecutors should take context into account when making case handling decisions.
3. When defense counsel and defendant consent, prosecutors should be willing to talk with them about the defendant's history of abuse.
4. Prosecutors must make sure that local law enforcement routinely and thoroughly assess situations for the possibility that the violence was self-defensive and, if so, collect evidence regarding self-defense and document findings. If self-defense is ruled out, prosecutors should also ensure that law enforcement assesses for the predominant aggressor, and investigates, documents, and collects evidence regarding the predominant aggressor. This can mean establishing a regular training relationship between prosecution and police about self-defense and pre-dominant aggressor assessment, keeping police apprised of new statutes and case law, and providing police with an opportunity to explore the application of these statutes and case law to the always unique fact situations that arise in domestic violence cases.

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<sup>15</sup> For more information, see "Effective Interventions in Domestic Violence Cases: Context is everything" by Loretta Frederick, available at [www.bwjp.org](http://www.bwjp.org).



5. Prosecutors should not bring charges against parties who appear to have been acting in self-defense.
6. Prosecutors should have either the authority to make case decisions, including dismissing cases, or an efficient means to obtain full consideration of their proposed dismissals by their superiors. Supervisory prosecutors must be available to assist them in making charging decisions when the defendant is a battered woman.
7. Even if preliminary charges are brought, it is important for prosecutors to continue to explore and address self-defense issues as the case proceeds. For example, the bail hearing (or other hearings about release) gives the prosecutor an opportunity to conduct additional fact finding. Noncustodial bail should be seriously considered.
8. Collateral consequences of domestic violence convictions (e.g., possible deportation, licensure problems, general employment difficulties, possible eviction from public housing, etc.) must be well understood by prosecutors, defense counsel, advocates, and judges.
9. It is important that prosecutors, defense counsel, advocates, and judges understand that, for a battered woman, a criminal charge or conviction often results in increased danger at the hands of her batterer. The batterer might feel empowered to do what he wishes when his partner has an open criminal charge, is on probation, or has a past conviction. Once arrested, a battered woman might be unwilling to seek help from law enforcement, even when facing her batterer's violence, for fear of being rearrested. Given these realities, it is important for prosecutors, defense counsel, advocates, and judges to be aware of potential safety issues for battered women defendants.
10. Defense counsel, prosecutors, advocates, judges, and probation officers need to be aware of the myriad ways in which a batterer may sabotage a battered woman's ability to fulfill the conditions of bail, pre-trial deferral, or of her sentence.
11. Battered women convicted of assaulting their batterers should not be ordered into batterers' intervention programs, and there is much controversy regarding whether they should be ordered into special groups for battered women who assault their batterers.



Community-based battered women's **advocates** and **defense attorneys** can be helpful in obtaining information about the history of abuse from a battered woman defendant. When appropriate, that information can be shared with prosecutors.

Please note: The National Clearinghouse for the Defense of Battered Women encourages advocates to work closely with defense attorneys on cases involving battered women as defendants. The National Clearinghouse also reminds advocates not to discuss any open cases with the prosecutor without the knowledge and express permission of defense counsel.

- Community-based Advocates and members of the defense bar must develop alliances to support good working relationships and advocacy for battered women charged with crimes against their abusers.
- Every defense counsel should interview his/her client to determine if he/she has been battered, especially a defendant whose charges involved her partner (either as a "victim" of the crime, as a co-defendant or where they have both been arrested for use of violence against one another). If there is a history of abuse, defense counsel should explore whether that history is relevant to the current case (e.g., to the position taken during pre-trial negotiations, to the choice of a legal defense, to explain defendant's behavior, to negate intent, and/or at sentencing).

**For more information contact:**

**National Clearinghouse for the Defense of Battered Women**

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*The National Clearinghouse is also part of the Battered Women's Justice Project.*

**Battered Women's Justice Project/Criminal**

Battered Women's Justice Project

1801 Nicollet Ave. S., Suite 102

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