

Attachment One (1)

Committee on Domestic Violence
November 7, 2024

Contents:

August 28, 2024 Meeting Minutes

**NEVADA OFFICE OF THE ATTORNEY GENERAL
COMMITTEE ON DOMESTIC VIOLENCE (CDV)**

MEETINGS MINUTES

Wednesday, August 28th, 2024, at 1:00 p.m.

Meeting Location:

Microsoft Teams meeting

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Meeting ID: 238 451 855 467

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1. Call to order and roll call of members.
 - a. The CDV meeting was called to order at 1:00 p.m.
 - b. Present
 - Attorney General Aaron Ford (Chair)
 - Abdur-Raheem, Elizabeth
 - Greene, Elyne
 - Gradick, Jamie
 - Thimsen, Kathleen
 - Metherell, Leticia
 - Ortenburger, Liz
 - Ramos, Suzanne
 - Harig, Tracy
 - Payne, Doctor Pamela
 - Duncan, Wes

- c. Absent

Nevada Office of the Attorney General, Committee on Domestic Violence

08/28/24 Meeting Minutes

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- Scott, Annette
- Green, April
- Lynch, Judge Patricia
- Hall, Karl
- Morris, Marla
- Ingram, Tyler
- Larson, Zach
- Spool, Judge James

- a. Staff
 - Reilly, Nicole
 - Rasul, Henna
- b. Public
 - None
- c. Quorum established.

2. **Public Comment.**

- a. None.

3. **For Discussion and Possible Action:** Review, discussion and possible approval of the *May 7, 2024, Meeting Minutes*.

- a. Approved unanimously with an adjustment to Elizabeth Abdur-Raheem's name in the minutes/roll call sheet.

4. **For Discussion and Possible Action:** Nicole Reilly, Nevada Attorney General's Office, will review the VINE Governance Committee NRS and will take volunteers for this subcommittee

Teresa Benitez-Thompson, Chief of Staff, Nevada Office of the Attorney General informed the committee:

- a. A committee is being reestablished to review proposals and to build out the RFP for new vendor submittals for when the VINE contract is up.
- b. Volunteers will submit their names to Nicole Reilly and Teresa Benitez-Thompson to join this subcommittee.

5. **For Discussion and Possible Action:** Teresa Benitez-Thompson, Chief of Staff, Nevada Attorney General's Office will discuss and take BDR requests from the CDV Members for the 2025 legislative Session

- a. Discussed outstanding language for BDRs and new ideas that the committee might want to include.

- b. Discussion regarding a BDR about making police reports free to survivors and the requirements needing these reports in order to obtain services.
6. **For discussion and Possible Action:** Teresa Benitez-Thompson, Chief of Staff, Nevada Attorney General's Office will re-visit the option for the CDV to absorb the Sexual Assault Advisory Committee and take responsibility for the mandates outlined for that committee in NRS 178A.320.
- a. Discussed what it would look like to absorb the duties of the Sexual Assault Advisory Committee. Discussed protentional language changes with LCB. Will bring forward proposals to the next meeting for exact language changes to show LCB.
7. **For Discussion:** Nicole Reilly, Nevada Attorney General's Office, will provide an update on the Data Subcommittee Action Plan.
- a. Identified where data collection is missing and remedies on how to receive those data points.
 - i. Northern Nevada Regional Intelligence Center was contacted and they are getting a new system in 2025. The Committee has been invited to make suggestions on data points we'd like to see collected while the new program is being built out.
 - ii. Discussed reaching out to DCFS to connect with their new administration to get data points from them since their information tends to be confidential.
8. **For Discussion and Possible Action:** Nicole Reilly, Nevada Attorney General's Office will review the rural meeting locations and the CDV members will vote on this year's location.
- a. The rural meeting will be some time at the end of October/beginning of November. Discussed possible locations
 - i. Voted and accepted unanimously to have the meeting held in Laughlin, NV.
9. **For Discussion:** Kathleen Thimsen DNP, MSN, WOCN/CETN, FNS, DF-AFN, Associate Professor in Residence, Distinguished Fellow - Academy of Forensic Nursing, Certified - Danger Assessment, Associate Editor - *Journal of the Academy of Forensic Nursing*, School of Nursing, UNLV, will present on the Certified Forensic Nursing program and any other pertinent information on this topic in Nevada.
- a. Discussed the lack of full time forensic nurses. There is a new Dean of nursing who is very supportive of forensic nursing who will discuss the

need for more trained nurses. Looking into another full week's training next spring with curriculum involving non fatal strangulation and gunshot wounds.

- b. Looking into heat maps for a firearm injury reduction plan.
- c. Discussed how the main issue is the singular billing system in southern Nevada, not necessarily the number of nurses trained or willing to be trained.
- d. Discussed the lack of immediate access for survivors and how some find it easier to fly home to another state than it is to get care here in Nevada.

10. **For Discussion:** Elizabeth Abur-Raheem, Executive Director, NCEDSV, will present the projects the coalition is involved in around the state regarding sexual assault and forensic nursing.

- a. The AGO runs the SAKI grant and NCEDSV has been working under this grant on several things:
 - i. Designed a training for SAKI improvements. It offers Les post credit units and outreach is commencing to bring more awareness to this training.
 - ii. Created an online resource on how to report sexual assault in both English and Spanish and what happens during a forensic exam.
 - iii. Met up with SANE nurses for better collaboration and provided direct emergency supplies for survivors at these exams.
 - iv. Worked on an indigenous initiative called "Weaving Communities Together" to grow their programs, training, and advocacy units.
- b. STOP grant work:
 - i. Updated their Sexual Assault best practices and promising practices guidelines for service providers.
- c. All 3 bills that they supported were passed.
 - i. Created the Committee on Responses to Power Based Violence in Schools through the Department of Education.
 - ii. Corrected a power imbalance to protect minor survivors during hearings.
- d. Annual NCEDSV conference will be September 24-26 in Henderson.

11. **For Discussion and Possible Action:** the CDV and Subcommittee's tentative future meeting dates:

- Data Subcommittee: TBD | Location: Virtual
- Committee on Domestic Violence: November 7, 2024 | Location: In-Person in Laughlin, NV and Virtual via Teams

12. Public Comment.

a. None.

13. **For Action:** Adjournment.

Minutes respectfully drafted by **Jamie Trevino**
Edited by **Nicole Reilly**
Office of the Attorney General

DRAFT

Attachment Two (2)

Committee on Domestic Violence
November 7, 2024

Contents: Proposed Language
Combining the Advisory
Committee on the Rights of
Survivors of Sexual Assault and
the Committee on Domestic

Violence

Proposed language to consolidate the Advisory Committee on Rights of Survivors of Sexual Assault Committee and the Committee on Domestic Violence by amending NRS 228.470 as follows: Proposed new language *in blue italics*.

Committee on Domestic Violence *and Sexual Assault*

NRS 228.470 Creation; composition; terms of members; duties; officers; meetings; staff; allowances and expenses; regulations.

1. The Committee on Domestic Violence is hereby created. The Committee is comprised of the Attorney General or a designee of the Attorney General and:

(a) The following members appointed by the Attorney General:

- (1) One staff member of a program for victims of domestic violence;
 - (2) One staff member of a program for the treatment of persons who commit domestic violence;
 - (3) One representative from an office of the district attorney with experience in prosecuting criminal offenses;
 - (4) One representative from an office of the city attorney with experience in prosecuting criminal offenses;
 - (5) One law enforcement officer;
 - (6) One provider of mental health care;
 - (7) ~~Two~~ *Three* survivors of domestic violence *and or sexual assault*;
 - (8) One justice of the peace or municipal judge;
 - (9) One representative from the Office of Court Administrator; and
 - (10) Any other person appointed by the Attorney General.
- (11) 1 medical professional with experience working with forensic sexual assault kits*

(b) One member who is a representative of the Division of Public and Behavioral Health of the Department of Health and Human Services, who is appointed by the Administrator of the Division and who has experience related to the certification of programs for the treatment of persons who commit domestic violence.

Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years. At least two members of the Committee must be residents of a county whose population is less than 100,000.

Account for Programs Related to Domestic Violence *and Sexual Assault*

NRS 228.460 Creation; deposits; administration; expenditures; claims.

1. The Account for Programs Related to Domestic Violence *and Sexual Assault* is hereby created in the State General Fund. Any fee imposed and collected pursuant to NRS 176.094 must be deposited with the State Controller for credit to the Account.
2. The Ombudsman for Victims of Domestic Violence, Sexual Assault and Human Trafficking:
 - (a) Shall administer the Account for Programs Related to Domestic Violence *and Sexual Assault*; and
 - (b) May expend money in the Account only to pay for expenses related to:
 - (1) The Committee;
 - (2) Training law enforcement officers, attorneys and members of the judicial system about domestic violence *and sexual assault*;
 - (3) Assisting victims of domestic violence *and sexual assault* and educating the public concerning domestic violence *and sexual assault*; and
 - (4) Carrying out the duties and functions of his or her office.
3. All claims against the Account for Programs Related to Domestic Violence *and Sexual Assault* must be paid as other claims against the State are paid.

The Committee shall:

- (a) Increase awareness of the existence and unacceptability of domestic violence *and sexual assault* in this State;
- (b) Review and evaluate existing programs provided to peace officers for training related to domestic violence *and sexual assault* and make recommendations to the Peace Officers' Standards and Training Commission regarding such training;
- (c) To the extent that money is available, provide financial support to programs for the prevention of domestic violence *and sexual assault* in this State;
- (d) Study and review all appropriate issues related to the administration of the criminal justice system in rural Nevada with respect to offenses involving domestic violence *and sexual assault* including, without limitation, the availability of counseling services;
- (e) Study issues that relate to domestic violence *and sexual assault*, including, without limitation, the intersections between domestic violence and sexual assault and domestic violence and human trafficking; ~~and~~ *make recommendations regarding whether a need exists for additional victims advocates for survivors and, if such a need exists, the Committee shall, create a plan for how the State can provide additional victims' advocates to meet such a need.*

(f) Whether a need exists to provide ongoing evaluation of the implementation of the rights of survivors pursuant to the Sexual Assault Survivors' Bill of Rights and, if such a need exists, the Committee shall:

(1) Identify the scope and nature of the need; and

(2) Make recommendations on how to best fill such a need, legislatively or otherwise.

(g) Review the effectiveness of the statewide program to track sexual assault forensic evidence kits pursuant to NRS 200.3788.

~~(h)~~ Submit on or before March 1 of each odd-numbered year a report to the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. In preparing the report, the Committee shall solicit comments and recommendations from district judges, municipal judges and justices of the peace in rural Nevada. The report must include, without limitation:

(1) A summary of the work of the Committee and recommendations for any necessary legislation concerning domestic violence *and sexual assault*; and

(2) All comments and recommendations received by the Committee.

NRS 228.490 Gifts, grants, donations and contributions. The Committee may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to [NRS 228.470](#). Any money that the Committee receives pursuant to this section must be deposited in and accounted for separately in the Account for Programs Related to Domestic Violence *and Sexual Assault* created pursuant to [NRS 228.460](#) for use by the Committee in carrying out its duties.

Update SAKI statues NRS to reflect the DV committee.

NRS 200.3788 Statewide program to track sexual assault forensic evidence kits: Requirements; annual report; participation; immunity from civil liability.

1. A statewide program to track sexual assault forensic evidence kits must be established in this State. The Attorney General shall, ~~pursuant to the recommendation of the Sexual Assault Kit Working Group~~, designate a department or division of the Executive Department of State Government to establish the program. The designated department or division may contract with any appropriate public or private agency, organization or institution to carry out the provisions of this section.

2. The program to track sexual assault forensic evidence kits must:

(a) Track the location and status of sexual assault forensic evidence kits, including, without limitation, the initial forensic medical examination, receipt by a law enforcement agency and receipt and genetic marker analysis at a forensic laboratory.

(b) Allow providers of health care who perform forensic medical examinations, law enforcement agencies, prosecutors, forensic laboratories and any other entities having sexual assault forensic evidence kits in their custody to track the status and location of sexual assault forensic evidence kits.

(c) Allow a victim of sexual assault to anonymously track or receive, by telephone or on an Internet website, updates regarding the status and location of his or her sexual assault forensic evidence kit.

3. The department or division designated pursuant to subsection 1 shall, on or before January 1 and July 1 of each year, submit to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Joint Interim Standing Committee on the Judiciary and post on the Internet website maintained by the department or division a report concerning the statewide program to track sexual assault forensic evidence kits. The report must include:

(a) The number of sexual assault forensic evidence kits in the program in each county.

(b) The number of sexual assault forensic evidence kits for which genetic marker analysis has been completed for each county for the last 6 months.

(c) The number of sexual assault forensic evidence kits added to the program in each county during the last 6 months.

(d) The number of sexual assault forensic evidence kits for which genetic marker analysis has been requested but not completed for each county.

(e) For this State as a whole and each county, the average and median time between a forensic medical examination and receipt of a sexual assault forensic evidence kit by a forensic laboratory for genetic marker analysis, overall and for the last 6 months.

(f) For this State as a whole and each county, the average and median time between receipt of a sexual assault forensic evidence kit by a forensic laboratory and genetic marker analysis, overall and for the last 6 months.

(g) The number of sexual assault forensic evidence kits in each county awaiting genetic marker analysis for more than 1 year and 6 months after forensic medical examination.

4. Each law enforcement agency, prosecutor, forensic laboratory and provider of health care who performs forensic medical examinations in this State shall participate in the statewide program to track sexual assault forensic evidence kits for the purpose of tracking the status of any sexual assault forensic evidence kits in the custody of the agency, prosecutor, laboratory or provider, or a third party under contract with such agency, prosecutor, laboratory or provider.

5. Any agency or person who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.

6. The department or division designated pursuant to subsection 1 may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this section.

~~7.—As used in this section, “Sexual Assault Kit Working Group” means the statewide working group led by the Office of the Attorney General to create policies and procedures to address the backlog of sexual assault forensic evidence kits that have not been tested.~~

Attachment Three (3)

Committee on Domestic Violence
November 7, 2024

Contents:
Biennial Legislative Report

2023 Committee on Domestic Violence (CDV) Biennial Report

**A Report to the Nevada Legislature by the
Committee on Domestic Violence**

In Compliance with Nevada Revised Statute 228.470



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COMMITTEE ON DOMESTIC VIOLENCE MEMBERSHIP

Aaron Ford
Attorney General
Committee Chairman
Nevada Office of the Attorney General

Annette Scott
Survivor and Advocate Tapestry
Collective, Founder
Las Vegas

Amanda Bullard
Administrative Director
Nevada Coalition to End Domestic
and Sexual Violence
Statewide

April Green
Directing Attorney
Family Justice Project
Legal Aid Center of Southern Nevada, Inc
Las Vegas

Elynn Greene
Victim Services Manager
Las Vegas Metropolitan Police
Department Las Vegas

Jamie Gradick
Rural Courts Coordinator
Administrative Office of the Courts Carson
City

Judge Patricia Lynch
Retired, Justice of the Peace
Reno

Judge James L. Spoo
Sparks Municipal Court
Sparks

Karl Hall
Reno City Attorney
Reno City Attorney's Office

Leticia Metherell, RN, CPM
Health Program Manager III,
Nevada Department of Health and Human
Services
Division of Public and Behavioral
Health/Health Care Quality and Compliance
Carson City

Liz Ortenburger
CEO
Safe Nest
Las Vegas

Marla Morris
Executive Director
Austin's House,
Carson City

Pamela B. Payne, Ph.D., CFLE
Assistant Professor
Departments of Human Development
Family Science & Counseling and Extension
Reno

Suzanne Ramos
Victim Advocate
Reno City Attorney's Office
Reno

Tracy Harig
Nurse Practitioner
Reno Orthopedic Center
Reno

Tyler Ingram
Elko District Attorney
Elko

Zach Larson
LRS – Batterer's Intervention
Las Vegas

Office of the Attorney General staff to Committee:

Teresa Benitez-Thompson, Chief of Staff

Nicole Reilly, Ombudsman for Domestic Violence, Sexual Assault
and Human Trafficking

Henna Rasul, Senior Deputy Attorney General to the Committee

Gina Hinds, Deputy Ombudsman for Domestic Violence, Sexual Assault
and Human Trafficking

2023 COMMITTEE ON DOMESTIC VIOLENCE (CDV) BIENNIAL REPORT

Introduction

The Committee on Domestic Violence was established July 2017 by Senate Bill (SB) 25 which consolidated the Nevada Council for the Prevention of Domestic Violence (NCPDV), Committee on Domestic Violence (CDV) – Batterer’s Intervention Program Certification, and Attorney General Statewide Domestic Violence Fatality Review Team (AGSDVFRT) into a single committee now known as the Committee on Domestic Violence (CDV). The Committee assumes responsibility for the work of the Nevada Council for the Prevention of Domestic Violence, which was established in 1995 by Former Attorney General Frankie Sue Del Papa as an advisory committee on domestic violence issues. In 2005, the 73rd Session of Nevada Legislature officially established the Council with the passage of Assembly Bill 219, see NRS 228.480. The Council has been responsible for the creation of standards for Batterer Intervention Programs, the creation of the Domestic Violence Ombudsman in the Office of the Attorney General, establishment of the Protection Order registry as part of the Department of Public Safety, the creation of the Nevada Domestic Violence Fatality Review Team (under Former Attorney General Catherine Cortez Masto) and many other policies and programs to address domestic violence in Nevada.

The mission of the CDV is to encourage the elimination of domestic violence and to help break the cycle of violence in Nevada. The purpose of the CDV is to prevent and eliminate domestic violence through increased awareness of the existence and unacceptability of domestic violence in our state, review the death of a victim of domestic violence, and recommend legislation.

The membership requires at least two individuals must be residents of a county whose population is less than 100,000 with the overall membership representing a variety of disciplines, including law enforcement, the judiciary, prosecution, victim services, a batterer’s treatment provider, a mental health care provider, and domestic violence survivors. The CDV meets at least three times each calendar year, one of which must be held in the Fourth, Fifth, Sixth, Seventh or Eleventh Judicial Districts (which includes Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Nye, Pershing, and White Pine counties).

Committee on Domestic Violence Meeting Highlights (2021-2022)

2021

- In 2021, the Committee on Domestic Violence (CDV) conducted multiple meetings at the Nevada Office of the Attorney General through in-person and videoconferencing meetings, and one meeting in Mesquite, Nevada for the annual CDV Rural Meeting.
- The CDV created subcommittees to help navigate projects of interest for all CDV members. Those subcommittees include the Services & Training Subcommittee, Justice Partners Subcommittee, and Domestic Violence Statewide Fatality Review Team (DVSFRT).
- The Domestic Violence Statewide Fatality Review Team met one time to update the protocols, the confidentiality agreement, and to discuss potential cases for review. There was not a case identified that met the Review Criteria of being fully adjudicated, therefore a case review was not held in 2021.
- A total of five meetings were held in 2021.

2022

- In 2022, the Committee on Domestic Violence (CDV) conducted multiple meetings at the Nevada Office of the Attorney General through in-person and videoconferencing meetings, including one virtual meeting and one meeting in Lovelock, Nevada for the Annual CDV Rural Meeting.
- The CDV supported the implementation of the Domestic Violence High Risk Team Model in local jurisdictions.
- The Services and Training Subcommittee met four times.
- The Justice Partners Subcommittee met five times.
- The Domestic Violence Statewide Fatality Review Team (DVSFRT) identified a case that met the Review Criteria and a meeting was held in September 2022 to review the case, identify issues, and develop recommendations for the DVSFRT Report.
- A total of 14 meetings were held in 2022.

2021 Meetings

February 18, 2021

Committee on Domestic Violence (CDV)

The CDV recommended changes to Senate Bill 45 (SB45) during the 81st 2021 legislative session. The references to sexual assault and human trafficking only apply to the Ombudsman and the Nevada Attorney General's Office and were removed as they related to the Committee except for addressing the intersection of sexual assault and human trafficking as they relate to domestic violence.

July 12, 2021

Committee on Domestic Violence (CDV)

CDV Member Jamie Gradick, Rural Courts Coordinator, Administrative Office of the Courts, discussed Judicial Training Topics. The members will develop a list of training topics to be provided to the Administrative Office of the Courts (AOC) with a request for these topics to be included on Judicial Training Agendas. Batterers' Intervention Efficacy Project, Pamela Payne, PHD, CFLE, Assistant Professor, University of Nevada, Reno. Dr. Payne discussed offender treatment and ongoing research to evaluate the efficacy of offender treatment programs.

August 30, 2021

Committee on Domestic Violence (CDV)

The committee discussed filling vacant positions. Ombudsman Reilly nominated two members as Co-Chairs to the Attorney General Statewide Domestic Violence Fatality Review Team. AGSDVFRT will canvas all domestic homicide cases that have been fully adjudicated in the past year and decide which one will be reviewed (specifically cases that provide most feedback related to gaps in the system).

September 23, 2021

Attorney General Statewide Domestic Violence Fatality Review Team (AGSDVFRT)

The team updated, reviewed, and approved the Review Protocol and the Confidentiality Agreement. The team discussed the review of adjudicated cases and how important it is to review such cases in the rural areas. The team also discussed the importance of adjudicated cases when state and county child protective services are involved and their roles in these cases.

November 8, 2021

Committee on Domestic Violence (CDV)

Mesquite Police Department announced a new robust victim services program to the City of Mesquite through the collaboration with SafeNest. The program was started October 1st. Mentors across the country are assisting with the establishment of the program backed by the standards of the International Association of Chiefs of Police Victim Advocacy Program. University of Nevada, Reno (UNR) partnered with representatives to seek statewide funding to implement high risk team models throughout Nevada. They have gone forward with the process and acquired funding to begin two High Risk Teams. Once the teams are operational with their facilitators, Memorandums of Understanding (MOUs) will be developed as cases are reviewed using the High-Risk Team and success factors measured throughout duration. CEO, Liz Ortenburger advocated for a statewide hotline for victims and survivors of domestic violence, sexual assault, and human trafficking. A statewide response would allow for statewide data. That same hotline could have personnel that can support a police officer in completing a lethality risk assessment to reduce domestic violence homicide. Ombudsman encouraged the consolidation of the subcommittees as the previous subcommittees were built for the previous two-year term. Chairman Ford made an executive decision to retain two subcommittees especially since they require extensive planning due to being subject to Open Meeting Law.

2022 Meetings

February 3, 2022

Committee on Domestic Violence (CDV) Services and Training Subcommittee

Members discussed standards of advocates who should have privilege and what additional expectations should be considered for the State of Nevada. This will allow the possibility of developing an impactful curriculum. The training would need to be overseen by an entity that can continuously update the training and screen all trainees who qualify for training. Once standardized, we can have additional training modules to introduce new topics. Members discussed the need for service providers to collaborate with law enforcement and the justice system to help victims and survivors without using confidentiality as an excuse to withhold critical information. Greene encouraged a conversation related to grant funding and requirements to receive funding that would support credible agencies with privilege. Members also discussed the possibility of a statewide hotline and education for school children about protecting oneself from abuse or what is appropriate physical touch.

February 10, 2022

Committee on Domestic Violence (CDV) Justice Partners Subcommittee

Members discussed the High-Risk Team Model that is being implemented through University of Nevada, Reno (UNR). UNR received funding for project and will be moving forward with the team(s). The plan is to expand services throughout State of Nevada.

Members added a community coordinated response team (CCRT) and will further explore data collection and reporting statewide to the action plan.

February 24, 2022

Committee on Domestic Violence (CDV)

Members discussed the responsibilities of response units to victims. They also discussed issues of the intake processes of the victims and that the process should be streamlined. Members discussed the turnover rates, funding issues and scheduling issues of advocates. The data collection from the courts needs to be addressed, along with batterer's treatment programs. The members also discussed the history of a statewide hotline.

March 3, 2022

Committee on Domestic Violence (CDV) Services and Training Subcommittee

Members discussed the crisis-hotline and having a centralized number. Members will review current law for legislative changes and/or adjustments. The members will discuss an implementation plan and will discuss the statutes that surround the Blue Card. Nicole will keep an updated and current list for the Blue Card. Nevada Department of Education- Nicole stated the standards will be reviewed first then we will research other states' practices. Mental Health Provider Services MAP- Liz stated this is outdated, stated this needs to intersect at many points.

March 11, 2022

Committee on Domestic Violence (CDV) Justice Partners Subcommittee

Ortenburger shared that the Clark County Domestic Violence Subcommittee is a place for agencies and their representatives to learn about each other. Members discussed the type of stakeholders necessary to be part of the CCRT template. Reilly suggested a presentation from Gradick at the next meeting related to data collection from courts. Members adjusted the action plan for a statewide template for the community coordinated response team (CCRT). Members will also obtain information from the grant unit related to Nevada Office of the Attorney General, Committee on Domestic Violence coordinating a CCRT and will Jamie Gradick to present on data collection oversight in the courts.

April 14, 2022

Committee on Domestic Violence (CDV) Services and Training Subcommittee

Members discussed revising the NRS for victim advocate requirements. They discussed following California as a model for its victim advocacy training. Greene stated that current Nevada law includes HT, DV, and SA advocacy and Best Practices information. Members will review a draft revision and discuss at the upcoming CVD meeting. Ortenburger stated the DA-LE vs. Lethality Assessment Program (LAP) should be added as it is a better screening mechanism as it is weighted in the scoring. DA-LE is a more meaningful and effective mechanism in comparison to LAP. Reilly suggested to continue the discussion on LAP and DA-LE mechanisms at the next subcommittee.

April 25, 2022

Committee on Domestic Violence (CDV) Justice Partners Subcommittee

Members discussed in detail the CCRT Characteristics and CCR Tool Kit. The goal will be to distribute these statewide and circulate it once the CCRT document is approved. Examples of agencies who will receive the CCRT documents will be the District Attorney's Association, the Sheriff's and Chief's Association, and the Prosecution Counsel.

The Members discussed incentivizing OVW funding. Reilly will check to see if there is an opportunity to expand OVW funding to the tri counties and smaller areas.

Members discussed implementing a plan to collect court data and how they use that data. Reilly will report once she receives more information. Members discussed there needs to be more judicial responsibility.

June 29, 2022

Committee on Domestic Violence (CDV) Justice Partners Subcommittee

April Green proposed a framework for implanting the CCRT Characteristics and CCR Tool Kit. CCRTs would be for coordinating responses to sexual assault and domestic violence victims and discuss expected protocols: responders need to act as one coherent body. Will allow for more effective services for victims. April Green's proposed framework is on page 116 of the June 29,

2022, Agenda. The process will require grant funding. April's proposed framework is three pages long in comparison to the 100+ pages in the CCR Tool Kit.

July 18, 2022

Committee on Domestic Violence (CDV) Services and Training Subcommittee

Members discussed revising Nevada's statutory victim advocacy training requirements. They recommended utilizing the BDR Committee to make these revisions. Members also discussed the DA-LE and LAP assessments wherein they compared the two. It was decided to utilize the DA-LE as a statewide assessment tool.

August 25, 2022

Committee on Domestic Violence (CDV)

Members discussed how community response teams can be a place to collaborate, educate, work with stakeholders, and assist the victims in need. A standard inter-agency referral process would be effective. Anyone who works with agencies who works with victims would be considered a community response team. The coalition started working closely with rural agencies who were in dire need and are continuing to do so over the next year. Strangulation exams are difficult for victims to obtain. Funding for CCRT can get funding for CCRT for to introduce a strangulation specific bill at the upcoming legislation.

Members also discussed BDR recommendation for NRS 49.2545 that governs advocate training. Members discussed changing the 20-hour recommendation to a 40-hour mandatory training requirement, supervised by a qualified agency or advocate who is specifically trained. Members suggested adding topics to the trainings such as ethics, civil and criminal law as it pertains to domestic violence, trauma training, and ongoing continuing education. Members are concerned that Nevada needs a basic level of training that meets a national standard of approval.

September 21, 2022

Committee on Domestic Violence (CDV) Justice Partners Subcommittee

Subcommittee members discussed the overview of the CCRT Proposal and CCRT Toolkit. Nevada Coalition to End Domestic Violence and Sexual Assault have been working diligently on the CCRT Toolkit processes. The coalition is implementing processes in the rural areas such as Humboldt and Winnemucca counties. Members decided it will be a better process for the coalition to continue the work they are doing and will collaborate with the coalition to develop a streamlined and concise recommendation together.

October 12, 2022

Committee on Domestic Violence (CDV)

Members discussed Division of Child and Family Services' domestic violence protocols. Members discussed the Nevada's Coalition to End Domestic and Sexual Violence progress and updates statewide. Members also discussed the Services and Training Subcommittee's plans and suggestions. Members discussed Justice Partners Subcommittee's plans and recommendations. Members created questions for the Judicial Review. And lastly, members discussed the Fatality Review Team's case review and discussed any changes and/or additions.

Judges' Survey

Per NRS 228.470(2)(f), the CDV shall solicit comments and recommendations from district judges, municipal judges, and justices of the peace in rural Nevada and include them in its report as a separate section.

The CDV in collaboration with the Administrative Office of the Courts compiled a survey for the Nevada Judiciary in November 2022. A Summary of this Survey is attached to this report.

Appendix A.

Attorney General Statewide Domestic Violence Fatality Review Team (AGSDVFRT)

The CDV – Attorney General Statewide Domestic Violence Fatality Review Team (AGSDVFRT) met virtually to conduct domestic violence fatality case review. Opportunities identified for improvement and suggested strategies for implementation are attached to Case Review Summary Report.

Appendix B

Appendix A

Legislative Report

Judges' Survey

2022 Committee for Domestic Violence Judicial Survey Questions and Answers

1. Did you receive any education on how to adjudicate domestic violence cases?

Yes.

Yes

Yes

I was recently appointed and then elected to the bench. I have not received education except for the conferences I attended as a prosecutor.

no

Yes

yes

Yes

Not this year

no

I believe there was a small section during the required new judge training offered by NCJFCJ

2. Did you receive any education on how to adjudicate sexual assault cases?

Not specifically, but our Court would only handle sexual assault cases to Preliminary Hearing.

No

no

Yes

yes

I believe courses I have taken have provided education on these types of cases. I would be open to additional training opportunities.

Not this year

no

no

3. Where and how often do you receive the domestic violence and sexual assault education?

- AOC Judge's Seminars
- Various judicial education seminars, no consistent time frame, but approximately every 2-3 years
- Domestic-Variou s times and ways throughout every year
- There is none currently set up. Municipal court does not handle sexual assault cases.
- rarely
- National Judicial College in Reno Nevada. One time so far.
- continuing education classes. Irregularly
- Domestic violence training is regularly provided at limited jurisdiction conferences for Nevada Judges.
- Not often enough, but through CLE programs maybe every 4 years
- unknown
- once in the two years I've been on the bench

4. What is your understanding of how programs for the treatment of persons who commit domestic violence work i.e., Batterers' Intervention Programs?

- Those programs are meant to provide a treatment based educational set of courses to help provide awareness and behavior modification in hopes that it will stop/prevent repeat offense and/or break the chain of domestic violence.
- It is lengthy course and classes teaching the abuser not only about DV means but all the various ways it can be abuse. The classes also teach the abuser what their triggers and issues are within themselves and teaches them to handle it in better ways
- we know they exist and that they are generally 6 month programs or 12 month programs
- I am most familiar with Battery Domestic Violence classes/counseling which require attendance at classes one time per week for 26 or 52 weeks.
- classes, reading
- These programs are aimed at rehabilitating and educating people accused or convicted of domestic violence. Generally, participants pay their own fees for these programs. Participants in the program may be required to be in the programs 6 months or more depending on the court requirements/case type.
- The length, the various components of the program
- little
- none

5. Do you know how to locate programs for the treatment of persons who commit domestic violence that have been certified by the State?

Yes.

Yes

Yes

Yes.

yes

I would use the internet if I looked myself. The Public Defenders Office also has a lot of information on these types of resources.

yes

The state maintains a list of certified providers that is accessible through the internet.

Yes

no

no

6. Do you believe that programs for the treatment of persons who commit domestic violence are effective? Why or why not?

- Moderately. Not all programs resonate with all defendants.
- It depends on if the person attending actively participates as well as the organization providing the program. Not all people participant, and not all programs provide the level of oversight for required interaction, causing ineffective outcomes

- Sometimes
- I think they are effective if the person in the program is interested or becomes interested in making a change in their behavior.
- I have not attended any programs so I would have no basis to know. I think 6 - 12 months of DV counseling once a week is too long and too expensive. I think its likely to escalate tensions between a batterer and his/her victim. Not the best way to handle this issue.
- Yes. As a former criminal defense attorney, I received positive feedback from some of my clients who were required to take these classes stating that they learned a lot and found them helpful.
- no. forcing education doesn't force change.
- Yes, I believe that the programs are worthwhile. As participants gain greater knowledge about the subject matter and learn better ways to handle situations, it can make a positive difference in their lives and reduce criminal recidivism.
- Somewhat - I hear feedback from participants that it was helpful, but there are always those who come back with a second or third offense
- unknown
- not sure

7. If you do not sentence domestic violence offenders to a program for the treatment of persons who commit domestic violence, why not?

- If the negotiation between the parties was for the offender to plead to a non-DV charge and not attend a treatment program, then I would follow the negotiation.
- I do sentence them to treatment programs.
- It is required by statute. I only do not sentence to that program when the prosecution and defense have come to an agreement whereby it isn't required.
- I do sentence these offenders to treatment programs.
- By the nature of the case in this court it has either already been done or is not an option usually.
- I always do
- I only handle felony level DV cases.
- most DV offenses in district court are mandatory prison

8. Approximately what percentage of domestic violence cases filed with your court are dismissed by the prosecutor? Reduced by the prosecutor? Dismissed by the court? Acquitted at trial?

- Dismissed by Prosecutor - 45%
Reduced by Prosecutor - 45%
Dismissed by the Court - 5%
Acquitted at trial - 5%
- As I do not provide over a DV caseload, that data is not readily available to me and should be obtained from our court administration
- 80 percent.....usually due to victim refusal to continue to cooperate with DA after/if charged. NEVER dismissed by Judge
- This information is unavailable at this time.
- most are dismissed or reduced. few go to trial.

- Dismissed by the Prosecutor: None
Reduced by the Prosecutor: 10%
Dismissed by the Court: None
Acquitted at trial: None
- ridiculous question
- Historically, I would estimate that around a quarter of the domestic violence cases filed with the court are dismissed by the prosecutor. Less than that amount are reduced by the prosecutor. We don't have a significant number of domestic violence cases that go all the way to trial.
- There are many that are reduced to misdemeanor batteries now that having a jury trial is an option. Those that I see dismissed seem to be because the victim was unwilling to participate and testify.
- dismissed by prosecutor: unknown; reduced: unknown; dismissed by Court: none; acquitted at trial: no data.
- unknown

9. What are the most common reasons you believe prevent you from being able to issue a temporary order against domestic violence?

- Insufficient grounds stated on TPO application.
- Requests for those types of TPOs go thru the family court division of the district court, not our justice court
- I very rarely do not issue.....if I have it's mainly due to an ongoing custody battle and parties are trying to use it to keep a child from other parent. This court ALWAYS sends those parties to District Court to obtain TPO from that court.
- Lack of information
- The moving party can't articulate a threat or pattern of harassment.
- incomplete information
- unknown

10. Have you had formal education for handling stalking prosecutions or orders of protection against stalking? If yes, where and what was the education?

Yes. AOC Seminars.

No

yes; yearly; various

Municipal court does not issue TPOs.

no

National Judicial College in Reno Nevada. One time so far.

yes

Some training on protection orders has been provided at limited jurisdiction conferences for Nevada Judges.

No

no

no

11. Other than what you may have learned from hearing evidence in a case, have you received any education about the effects of trauma, brain injury or strangulation on a victim?

Minimal

No

No

no

No

yes

Some of the training sessions I have attended have discussed that topic.

Yes, as part of being a specialty court judge I've received a lot of training in this area

no

no

12. Would you support courts reporting statistics on domestic violence conviction rates, how many of those convictions were jury trials, how many Domestic Violence Temporary Protective Orders applications were filed, how many denied Domestic Violence Temporary Protective Orders are denied, and other statistical information?

No. Courts have to do enough statistical reporting. We do not have enough personnel to handle all the reporting as it is.

Yes

Yes

The court reports numerous stats to the AOC. Municipal court does not issue TPOs. Municipal court issues no contact orders.

yes, so long as its possible using our case management system and that we have sufficient resources

Yes

Yes

Yes!

yes

yes

Appendix B

Legislative Report

Attorney General Statewide Domestic
Violence Fatality Review Team
(AGSDVFRT)

**Nevada Office of the Attorney General
Committee on Domestic Violence
Fatality Review Subcommittee**

Case Review Summary Report
September 28, 2022

Summary of Review:

On September 28, 2022, the Nevada Office of the Attorney General Committee on Domestic Violence Fatality Review Subcommittee conducted a case review. The purpose of the review was to gather information about a fatality related to domestic violence and understand the circumstances leading up to the fatality to identify any opportunities for intervention. In addition to this case-specific review, the subcommittee also worked to generate discussion about the local community and/or state response to domestic violence, prevention, and intervention efforts. The multidisciplinary review process works to identify opportunities for improvement and make recommendations for prevention of future deaths related to domestic violence.

While the focus of the subcommittee was on the details of one specific case, through discussion the Fatality Review Team discussed general community concerns related to domestic violence. Below is a list of identified opportunities for improvement as well as resources and suggested strategies for implementation.

Opportunities Identified by the Review Subcommittee:

Issue #1: Medical Professionals

While reviewing screenings for violence by professionals at the Emergency Room, Mental Health Response Team, and the Mental Health facilities identified that the victim disclosed domestic violence only One (1) out of seven (7) screenings. Four (4) of those screenings the victim reported depression and anxiety but no abuse and only one (1) of the screenings the victim reported depression, anxiety, and abuse. In comparing the timeline of the screenings with the timeline of the relationships it was noted the victim had been in an abusive relationship concurrently with being given the screenings. At none of these screenings was the victim provided education on dynamics of domestic violence, resources for victims of domestic violence, or asked if they could be given a warm handoff to a service provider.

Proposed Response: Implementing intervention tools to medical professionals wherein warm handoffs are provided when domestic violence and/or sexual assault is disclosed. Educational and informational packets, cards, and brochures about domestic violence, sexual assault, and human trafficking should be provided to all pregnant females and anyone who discloses depression/anxiety even if they don't disclose abuse. The primary focus here is to educate a victim.

Issue #2: Strangulation Exam Costs

Many medical professionals of Nevada are not properly equipped to examine victims of domestic violence, sexual assault, and human trafficking. Typically, in an incident of strangulation, a victim will seek medical attention right away to report the strangulation only to find a clipboard with the cost of the examination before the examination begins. Oftentimes, medical professionals do not have strangulation kits in their facilities, some are not properly trained to assess and examine a victim of strangulation. In 2022, within one month, Safenest in Las Vegas had 116 victims due to the cost of the exam and lack of qualified providers. This is problematic because the victim of strangulation, as in the same case with a rape victim, needs to be examined within 72 hours after the attack. The process of a victim reporting to a medical professional should be efficient and productive. Nevada's victims deserve the right to a strangulation exam immediately after the attack, regardless of the cost. Moreover, there currently are no mandates to assist in the proper treatment and care of a victim of strangulation.

Proposed Response: First and foremost, Strangulation exams need to mirror the sexual assault forensic exam and be free of charge to the victim. A victim who discloses strangulation should never be turned away. Rather, they should be examined immediately regardless of cost, treated with respect, and provided a warm hand off to an advocate of domestic violence, sexual assault and/or human trafficking.

Issue #3: Strangulation Assessments

Strangulation has been identified as a significant indicator of violence escalation, increasing the chance of homicide by 750% (Ketchmark, 2020). Signs of strangulation are often not visually apparent and frequently have a latent presentation (Faugno et al., 2013). Symptoms can mimic that of an anoxic brain injury, causing memory loss, confusion, and psychosis. Victims may have

serious internal injuries resulting in permanent impairment or death days or weeks after the strangulation event (Clarot et al., 2005). In Nevada, there is no standard training for judges, prosecutors, law enforcement, first responders, or healthcare providers. Therefore, strangulation occurrences are often missed, leading to not only a missed medical diagnosis but also a missed opportunity to appreciate the true lethality risk a survivor faces and hold the offender accountable.

Proposed Response: All persons experiencing intimate partner violence should be screened universally for strangulation and when identified, should be offered comprehensive medical-forensic assessments, in accordance with IAFS standards (International Association of Forensic Nurses [IAFS], 2016). This dictates that law enforcement, first responders, medical providers, prosecutors, and judges receive evidence-based training to the identification and long-term ramifications of strangulation. There is a three (3) part recommendation to address this issue. The immediate recommendation is that the Nevada Coalition to End Domestic and Sexual Violence conduct a statewide needs assessment for Strangulation Exam Providers. The mid-range recommendation is to train existing Sexual Assault Response Team providers in performing strangulation exams according to recommendations by the International Association of Forensic Nurses (IAFN). A long-range recommendation would be to have a trained provider in every hospital and tribal clinic in the state competent in conducting non-lethal strangulation exams in accordance with the IAFS standards.

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Issue #4: Healthcare System

The absence of a trauma informed healthcare system with protocols implemented for identifying and referring victims can have deadly consequences. The healthcare system is one of the best places to screen a patient for domestic violence, sexual assault, and human trafficking. Without proper trauma training a healthcare provider does not have the tools to identify and assist victims with available resources to promote their safety and success. Without trauma informed healthcare, victims are not given the much-needed opportunities to support their survival and fatalities continue to occur. If staff were sufficiently trained and protocols were routinely implemented, healthcare systems would better support the community.

Proposed Response: Literature has demonstrated the economic and societal benefits of healthcare providers taking an active role in the screening, referral, and treatment of domestic violence, sexual assault, and human trafficking patients (Peterson et al., 2018; Curry et al., 2018). Trauma informed care (TIC) is recognizing the signs and symptoms of trauma in patients and families, understanding the negative health consequences associated with a history of trauma, including the increased risk for future potential victimization, and implementing strategies and protocols that recognize this understanding (Schimmels & Cunningham, 2021). TIC is recognized as a best practice in clinical guidelines to ensure comprehensive primary, secondary, and tertiary prevention strategies (Duffee et al., 2021) and the American Academy of Family Physicians recommends all medical schools and residencies offer instruction in TIC (AAFP, 2021) Educating our healthcare workforce in trauma informed care, which includes the identification and treatment of victims of domestic violence, sexual assault, and human trafficking should be a priority. Nursing and medical schools in Nevada should implement evidenced based curricula on TIC (Cannon et al., 2020), which is supported by the American Association of Colleges of Nursing (2020).

Healthcare facilities should include TIC into their educational offerings for all staff members, which will not only increase the identification of victims but also work to normalize the understanding of the intersection of trauma and community health. On the federal level, the Center for Disease Control's Office of Public Health Preparedness and Response (OPHPR) and Substance Abuse and Mental Health Services Administration's (SAMHSA) National Center for Trauma-Informed Care (NCTIC) has developed a training program for first responders to be used during public health emergencies (CDC, 2020). This training program can be implemented on a community level with first responders through private and government agencies. Finally, the various state consumer protection regulatory boards (Board of Nursing, Medical Board, etc.) should require this training as ongoing continuing education requirements that may be fulfilled either by in person instruction or virtual, as is currently standard with other educational requirements.

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Issue #5: Courts

Courts are not providing all disposition to the Central Repository or providing certified criminal disposition in a timely manner for enhancement purposes. Prosecution Office would be unable to enhance the criminal offense nor the enhanced sentence. The issue is that courts are NOT providing Prosecution Offices with the certified disposition in a timely manner.

Proposed Response: NRS 179A.075 3 (c) within 60 days after the date of the disposition of the case, the agency must submit a record of the disposition. Engage DPS for possible regulations requiring Courts to provide Prosecution Office with certified disposition within 60 days.

Proposed Action Plan:

The Fatality Review Team developed each of the recommendations listed above and the local community where the review was completed has already started to discuss ways that some of these recommendations can be implemented. The report of recommendations is provided to the Committee on Domestic Violence for discussion and possible action. In addition, the Committee on Domestic Violence and the Ombudsman for Domestic Violence, Sexual Assault, and Human Trafficking can also help to support training initiatives, the dissemination of best practices and implementation of the recommendations statewide.

Attachment Four (4)

Committee on Domestic Violence
November 7, 2024

Contents:
Draft 2023 Attorney General's
Statewide Domestic Violence
Fatality Review Report



Nevada Office of the Attorney General Committee on Domestic Violence (CDV) Fatality Review Team Report

December 20, 2023

Summary of Review:

On December 20, 2023, the Nevada Office of the Attorney General Committee on Domestic Violence Statewide Fatality Review Team (AG-DVSFRT) conducted a review of domestic violence fatalities in Clark County and the rural counties as well as the Gun Violence Archives Murder/Suicide Report 2023 ([Murder/Suicides in 2023 | Gun Violence Archive](#)). The purpose of the review was to gather information about fatalities related to domestic violence in Nevada and to identify any opportunities for intervention. In addition to this review, the subcommittee also worked to generate discussion about the state response to domestic violence, prevention, and intervention efforts. The multidisciplinary review process works to identify opportunities for improvement and make recommendations for prevention of future deaths related to domestic violence.

Below is a list of identified opportunities for improvement as well as resources and suggested strategies for implementation.

Opportunities Identified by the Review Team:

Issue #1: *Training was the first issue identified. This review led the team beyond gaps, barriers, and challenges in the criminal justice system, which includes legislators, the judiciary, prosecution, and law enforcement, out into the community. The team took a great deal of time walking through as many sectors in life a victim/survivor may encounter as a female, as a male, and then again as a member of the LGBTQ+ community. While doing this the team identified key*

components of understanding and responding appropriately to incidences of domestic violence that are being missed across the state. These components are cultural and gender biases, updated evidence-based information on the complexity of domestic violence and how to identify patterns of abuse in the midst of chaos, complex trauma, the trauma bond impact on children, impacts of judicial orders and decisions (e.g., reunification, parental alienation), strangulation, and the importance of coordinated communication between law enforcement and the judiciary.

Proposed Response:

Identify experts in the areas recognized above to provide video trainings the state of Nevada can utilize for training those that serve within the system and for our community service providers to utilize when providing public awareness events and advocate continuing education. To reiterate for clarity, the trainings will include cultural and gender biases, updated evidence-based information on the complexity of domestic violence and how to identify patterns of abuse in the midst of chaos, complex trauma, the trauma bond impact on children, impacts of judicial orders and decisions (e.g., reunification, parental alienation), strangulation, the importance of coordinated communication between law enforcement and the judiciary (e.g. law enforcement does an assessment on scene which is then transmitted to the appropriate court as soon as possible), and any other areas identified as the project takes form. The video trainings will be made available to the Legislature, National Council of Juvenile and Family Court Judges, Nevada Administrative Office of the Courts Education Division, Nevada District Attorney's Association, Nevada Prosecutors Council, University of Nevada, Reno and Las Vegas, Nevada Coalition to End Domestic and Sexual Violence, Department of Child and Family Services, POST, CASA, statewide victim community service providers, medical providers, and any partners identified as possibly intersecting with victims of domestic violence and could have an opportunity to provide lifesaving information.

Issue #2: *There is no Statewide Domestic Violence Call Number to operate like 911 and route incoming 24/7 calls to the appropriate service provider or law enforcement agency. After much discussion, the scope of the issue was identified as being larger than this team could sufficiently address.*

Proposed Response:

Recommend to the Nevada Attorney General's Committee on Domestic Violence (CDV) to create a taskforce to perform a comprehensive review of what would be required to provide a 24/7 Statewide Call Number and report the findings back to

the CDV for possible further action. The taskforce would be responsible for identifying possible funding sources, any legislative changes that may need to be made, develop a coordinated plan that matches the funding and needs of the survivors, establish standardized language for congruency, and any other items not identified here but discovered in the research process taking efficiency into consideration at all times.

Issue #3: *There is a lack of healthy relationship education in the K-12 schools. Youth who are unable to identify the characteristics of healthy and unhealthy relationships are at far greater risk of experiencing domestic violence. While important for all youth, education in the schools is especially important for those who may be experiencing violence in their home. These classes can provide more than information for these students, they provide a trusted adult to talk with and resources for support outside of the classroom. Currently the state mandated sex education curriculum does not require information about healthy relationships.*

Proposed Response:

The Statewide Committee on Responses to Power-Based Violence in Schools (SCRPBVS) began meeting in 2023 and is working on creating guidelines for Nevada school districts to address power-based violence. This includes building strong relationships between school districts and community-based organizations. The Executive Director of Nevada Coalition to End Domestic and Sexual Violence (NCEDSV) currently chairs the SCRPBVS and is a voting member of the CDV. NCEDSV will bring the recommendations of this report to the committee to ensure that plans to implement statewide evidence-based prevention strategies including healthy relationship education are addressed in the work of the SCRPBVS.

Issue #4: *There is a lack of awareness about the severity and pervasiveness of domestic violence, and the local services available in a community by its local businesses and establishments. domestic violence Partnership, outreach, education, community involvement*

Proposed Response:

Create ways to bring together all community resources and partners (such as religious leaders, chambers of commerce, realtors, outside of the box partners etc.) to coordinate all avenues of services in a streamlined referral process to provide a robust of wrap around services as possible. The easier and user friendly

the process is, the more likely it will be used in all cases not just the most severe. The earlier we intervene in a case the less likely a fatality will occur.

Identify ways to boost community outreach to not only bring more awareness to domestic violence but so more people know of all available resource options. Designate resources for larger outreach impact. A great example would be putting information about the pervasiveness of domestic violence and its impacts on families, how many in their service area alone on billboards. This will assist in making domestic violence less of a taboo topic and more on the forefront of everyone's minds.

***Issue #5:** The public continues to see domestic violence as a CIS gender woman being abused by a CIS gender man. We know that this leaves out many victims across the gender spectrum including CIS gender men. Gender-based violence language perpetuates this stereotype. Despite clear VAWA regulations, programs in Nevada continue to serve men differently by universal hotel placements rather than shelter when available. Hotel placements are not as safe and do not offer the same level of services as shelters. Public education along with program guidelines and technical support are needed to ensure that all victims feel safe to come forward and receive the same quality of services.*

Proposed Response:

It is recommended that the Attorney General's office ensure that public awareness campaigns and all outreach materials include gender-representation when portraying victims. Gender neutral pronouns should be used when discussing both victims and perpetrators of violence. The term **power-based violence** should be used in place of **gender-based violence** to ensure that all victims are included, and the foundation of the problem is clearly identified.

The Nevada Coalition to End Domestic and Sexual Violence (NCEDSV) is currently updating the promising practices manual for direct services providers along with an agency self-assessment tool. Both will include a comprehensive section on serving male victims. NCEDSV will guide programs through self-assessment and support in the creation of improvement plans including serving all genders equitably.

Proposed Action Plan:

The Attorney General’s Fatality Review Team developed each of the recommendations listed above and the local community where the review was completed has already started to discuss ways that some of these recommendations can be implemented. The report of recommendations is provided to the Committee on Domestic Violence (CDV) for discussion to identify ways the CDV and/or it’s members and their networks can take action in implementation. In addition, the Committee on Domestic Violence and the Ombudsman for Domestic Violence, Sexual Assault, and Human Trafficking can also help to support training initiatives, the dissemination of best practices, and implementation of the recommendations statewide.

Attachment A: Domestic Violence Training and Resource List

DRAFT

Attachment Five (5)

Committee on Domestic Violence
November 7, 2024

Contents:
State of Nevada Domestic Violence
Prosecution Best Practices
Guideline



NEVADA
DISTRICT ATTORNEYS
ASSOCIATION

STATE OF NEVADA

Domestic Violence Prosecution Best Practice Guidelines

As adopted by the Committee on Domestic Violence and approved by
the Nevada District Attorneys Association



Nevada Domestic Violence Prosecution Best Practice Guidelines

As adopted by the Committee on Domestic Violence
And approved by the Nevada District Attorney's Association

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I. INTRODUCTION

A. Purpose of Guidelines

The purpose of these guidelines is to provide a set of best practices for all levels of domestic violence prosecutions for the State of Nevada in the hope that they will be adopted in whole or in part by all agencies which have the prosecution of crimes of domestic violence as part of their duties to the community.

These guidelines are based upon the premise that domestic violence is criminal conduct. Prosecutors have the responsibility to prosecute these cases as aggressively as they do any other violent crimes, while recognizing the unique and possibly ongoing relationship between the victim and defendant. The public has a critical interest in reducing the number of incidents of domestic violence, as domestic violence tends to escalate in severity and frequency, and, unchecked, can lead to homicide.

Successful prosecution of crimes of domestic violence requires specialized techniques designed to protect victims from retaliation by the perpetrator, allay victims' fears of the criminal justice system, and encourage victims' cooperation with the prosecution.

Adherence to these guidelines should help prosecutors to be more effective and ultimately further the goals set forth below.

B. Goals of Prosecution¹

The goals of prosecution in domestic violence cases are:

1. To protect the victim from additional acts of violence committed by the perpetrator;
2. To reduce the exposure and/or possible injury to children or other family members from domestic violence;
3. To deter the perpetrator from committing continued acts of violence in the community and hold them accountable for their actions; this approach can also include addressing underlying issues of abuse, including but not limited to alcohol/drug abuse and mental illness
4. To create a general deterrence to domestic violence in the community; and
5. To serve justice²

¹ Victims and advocates may not necessarily share all these goals and may have their own objectives separate and distinct from those of the prosecutor. For example, a victim may want the violence to stop, but to continue in a relationship with the perpetrator, while the prosecutor may want the perpetrator incarcerated.

² These guidelines are not intended for prosecution of domestic violence victims who injure or kill their abusers in self-defense. Prosecutors should be extremely careful in assessing batteries to determine whether the act was in self-defense based on the circumstances surrounding the incident and any past history of violence.

Prosecutors should take care to elicit the victim's objectives and to take them into consideration so as to formulate appropriate goals for each individual prosecution.

C. Definition of Domestic Violence

Domestic violence is defined by the relationship of the victim to the perpetrator, in addition to the acts committed. These relationships generally include current or former spouses, individuals related by blood or marriage, any person with whom they have or have had a dating relationship with (frequent, intimate association characterized by the expectation of affectional or sexual involvement), any person with whom the person has a child in common, the minor child of any of those person's or a person's minor child. See NRS 33.018.

A single incident of domestic violence generally represents a larger pattern of behavior. This pattern can take many forms, all of them involving physical violence or threats of physical violence. The pattern may include verbal, emotional, sexual, and economic abuse as well. The perpetrator's goal is to obtain and maintain power and control over the victim. The violence may be accomplished with the use of hands, feet, weapons, or other objects. Injuries inflicted on the victim may be as serious as those inflicted in violent felonies. Some examples of felonies committed in a domestic violence context include assault with a deadly weapon, battery with a deadly weapon, battery strangulation, battery causing substantial bodily injury, aggravated stalking, kidnapping, child endangerment, animal cruelty, sexual assault, robbery, burglary, and murder. Some examples of misdemeanors commonly committed in a domestic violence context include assault, battery, harassment, stalking, trespassing, coercion, violation of a temporary protective order, destruction of property, and disturbing the peace. See NRS 33.018.

Prosecutors should be aware of the following characteristics of domestic violence.

- The vast majority of adult victims of domestic violence are women.
- Domestic violence occurs in every racial and socio-economic group.
- Perpetrators use violence as a tool to establish power and maintain control over their partners and children.
- Violence often increases in severity and frequency at the time of separation and thereafter.
- Many times, individuals who abuse their partners abuse their children, other family members, and pets as well.
- Victims of domestic violence and their children are often compelled to return to relationships with perpetrators for many reasons, including economic concerns, threats to abduct children or obtain physical custody of them, fear of deportation, and/or threats of death or other harm to victims and their families.

II. CORE STRATEGIES

A. Specialization

Specialization results in a higher conviction rate of domestic violence perpetrators. Therefore, ideally, prosecutors should establish domestic violence units in large offices, or create specialists in smaller offices, to permit vertical prosecution and enhance expertise on domestic violence cases.

Vertical prosecution is especially helpful in domestic violence cases because the consistency of one prosecutor handling the case from filing to disposition helps establish trust with the victim. Trust and rapport with the victim can be difficult to establish in domestic violence cases. When using vertical prosecution, prosecutors have a better opportunity to build and maintain a relationship with the victim through the pendency of the case. In situations in which horizontal prosecution is used due to staffing or other reasons, consistency should be derived from familiarity with the same victim advocate throughout the case.

Additionally, specialization is ideal so that prosecutors handling a domestic violence caseload are able to develop expertise in how to handle the specific issues that arise in domestic violence prosecutions. Absent the ability to specialize, periodic training is encouraged to ensure that all prosecutors understand the issues of domestic violence and are familiar with appropriate resources and referrals in the community.

To promote willing victim participation in the prosecution of cases, it is advisable to use a trauma response approach. Victims should be provided with emotional support, information regarding the criminal justice system, and referrals to social services and legal assistance organizations. As discussed in more detail below, it is suggested that the prosecutor's office utilize a victim advocate to establish a rapport and provide ongoing support to the victim. Additionally, or alternatively, prosecutors' offices should build an effective collaboration with local domestic violence agencies in the community.

B. Early and Consistent Contact with Victims

Early, consistent contact with victims and immediate referral to appropriate support services is critical to preserving a case and the victim's safety. The prosecutor's office should utilize available resources to discuss victim's concerns and community concerns. It is also important from the outset to update victim contact information, as victims often move as a result of domestic violence and may change other contact information such as telephone numbers and email addresses.

C. Understanding Victim Recantation, Minimization, and Self-Blame

It is crucial for prosecutors handling domestic violence cases to understand that victims of domestic violence often recant, minimize, or deny the abuse as a result of the power and control the abuser maintains over them³. Recantation or refusal to participate in prosecution may be due to the victim's financial dependence on their abuser; fear of continued or worsening abuse; psychological vulnerability; attachment to the offender; family, cultural, or religious pressure to stay with their abuser; shame or embarrassment; fear of deportation; feelings of guilt or self-blame; and other factors. Victims of domestic violence may view recantation as the safest and most prudent course of action for a variety of reasons.

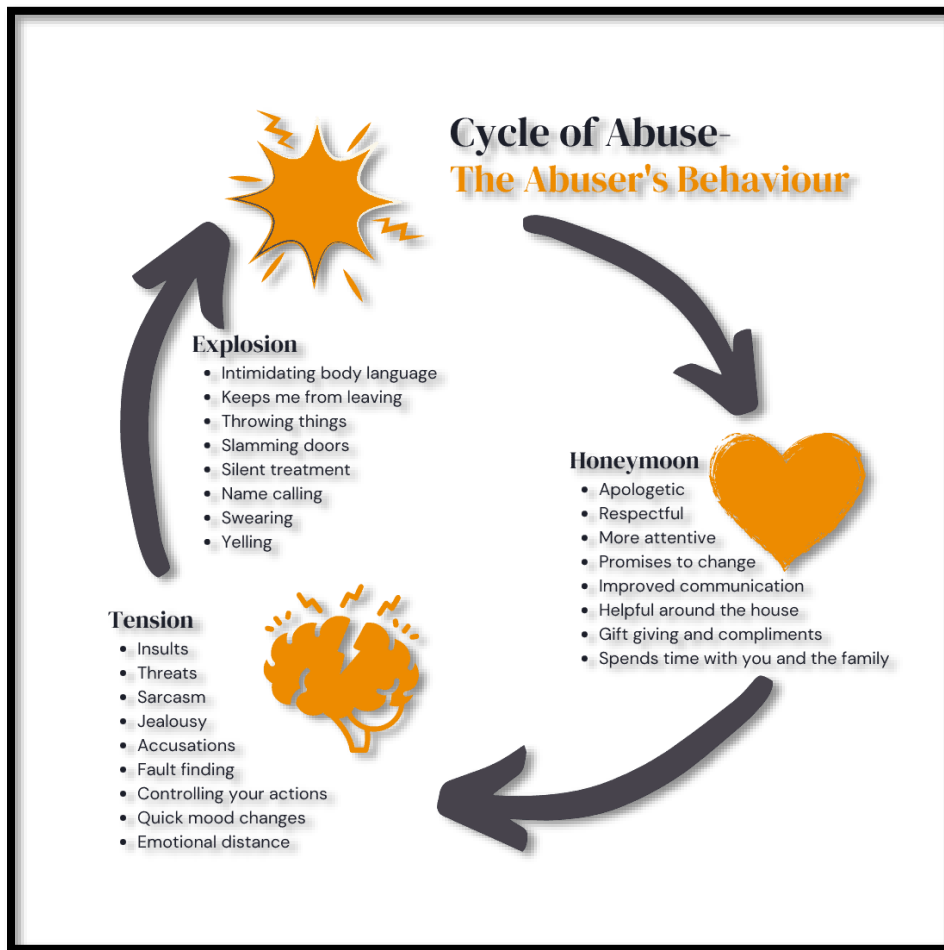
These factors are so powerful that most domestic violence victims recant or minimize the abuse. Strategizing how to handle recantation is, therefore, key to a prosecutor's handling of domestic violence cases.⁴

Furthermore, many victims of domestic abuse are caught in an unhealthy cycle of violence with their

³ The Duluth Model Power and Control Wheel can be used to depict the forms of control an offender uses over victims. Wheel Gallery, Domestic Abuse Intervention Programs Home of the Duluth Model (2011), <http://www.theduluthmodel.org/training/wheels.html>.

⁴ Prosecutors should be aware of their Brady obligations when a victim recants or changes versions of events.

abuser (depicted below⁵), which may affect a victim’s willingness to participate in the criminal justice process. This may account for a victim’s stated wishes or goals to the prosecutor regarding the resolution or dismissal of the criminal case. Prosecutors should be aware of these concerns before discussing the case with the victim.



The prosecutor should also recognize that an abuser’s “power and control”⁶ over a victim is often multi-faceted by the time that physical violence has begun. It is not uncommon for victims to discuss issues that may seem irrelevant to physical violence as though they are worse or more severe than the physical violence. For example, the fact that an abuser has not paid the victim back for a loan or refuses to change a child-in-common’s diapers may be a repeated topic of conversation when interviewing the victim, even though it is irrelevant or “harmless” when compared to the core physical attack. The prosecutor should treat these issues with care while maintaining the goal of gathering facts for the prosecution and should not attempt to minimize the abuser’s acts of non-violent abuse. These financial, emotional, and verbal forms of abuse are often as severe to a victim’s well-being in their personal lives and, further, exemplify the power and control that a defendant has over a victim which may lead them to refuse to testify.

⁵ Graphic depiction of cycle of violence taken from <https://www.asafeplace.ca/learn/about-abuse/cycle-of-abuse/> last visited on August 13, 2024.

⁶ Graphic depiction of Power and Control wheel taken from <https://www.center4research.org/the-cycle-of-domestic-violence/> last visited on August 13, 2024.



D. The Victim’s Mentality Throughout Prosecution

While the abuser is often at the forefront of the prosecutor’s mind when handling a domestic violence case, the victim’s mentality is a necessary component of the case which the prosecutor must attempt to understand. A model of behavior change known as the “Stages of Change” model⁷ defines five stages that victims may progress through as they process domestic abuse:

- (1) **Pre-Contemplation**, where the victim minimizes any abuse that occurs and has no intention of making changes. At this stage, a victim will likely refuse to testify or assist with a prosecution against their abuser at all. At this stage, if circumstances justify it, it may be more productive to allow an advocate to speak with the victim about what domestic violence is and what

⁷ See Jane K. Stoeber, Transforming Domestic Violence Representation, 101 Ky. L.J. 483 (2013).

resources exist in case they attempt to leave the abuser.

- (2) **Contemplation**, where violence has escalated and become more severe, and the victim attempts to build support structures to make a safe exit. At this stage, the victim may be willing to engage in a prosecution against their abuser but may still be reluctant or overwhelmed by external considerations such as finance, emotions, and social structures.
- (3) **Preparation**, where a victim seeks out others to re-conceptualize the problem to determine possible actions. At this stage, the victim is more willing to accept law enforcement assistance, but may still be overwhelmed with regards to interviews, appearing for court, or speaking at sentencing as they attempt to get their feet on the ground after frequent abuse.
- (4) **Action**, where a victim is motivated to change the environment and carries out strategies to protect themselves and children from future violence. At this stage, the victim is likely a motivated and encouraged assistant in the prosecution, making themselves available for interviews and sending evidence to police and investigators.
- (5) **Maintenance**, where a victim has separated – if only emotionally or mentally - from an abuser and attempts to continue the actions necessary to sustain the desired change. At this stage, the victim is still likely motivated to assist in the prosecution, but the prosecutor should be patient as the victim may still exhibit signs of overwhelming fear of impending danger and assault, as well as hyper-vigilance and flashbacks.⁸

It is important to note that these stages are not linear, and a victim may cycle between various stages of change even up to trial. While the prosecutor should always determine the resolution of the case that is in the best interests of justice, even if against the victim's wishes, understanding the victim's mentality throughout preparation for trial may inform a victim-centered approach to prosecuting. These cases involve especially vulnerable victims. Thus, the prosecutor should not expect consistent participation, but should approach the victim with care and information about the case and what to expect at subsequent hearings.

The prosecutor should not attempt to "categorize" the victim immediately, as no victim will fit squarely into any stage. However, understanding roughly where the victim lies on the scale as the prosecutor interviews the victim or prepares for the case will guide the prosecutor on the appropriate approach to interacting with a victim. Sometimes, the victim's mentality may be irrelevant to the ultimate disposition of a case given the severity of the crime, as discussed below. However,

⁸ Information taken from Jane K. Stoeber, Transforming Domestic Violence Representation, 101 KY. L.J. 483 (2013) (citing Jessica Griffin Burke et al., Defining Appropriate Stages of Change for Intimate Partner Violence Survivors, 24 VIOLENCE & VICTIMS 36 (2009) (describing quantitative research and findings consistent with earlier qualitative studies); Jessica G. Burke et al., Ending Intimate Partner Violence: An Application of the Transtheoretical Model, 28 AM. J. HEALTH BEHAVIOR 122 (2004); Jessica G. Burke et al., The Process of Ending Abuse in Intimate Relationships: A Qualitative Exploration of the Transtheoretical Model, 7 VIOLENCE AGAINST WOMEN 1144 (2001); Kelly H. Burkitt & Gregory L. Larkin, The Transtheoretical Model in Intimate Partner Violence Victimization: Stage Changes Over Time, 23 VIOLENCE & VICTIMS 411 (2008); Sondra Burman, Battered Women: Stages of Change and Other Treatment Models That Instigate and Sustain Leaving, 3 BRIEF TREATMENT & CRISIS INTERVENTION 83 (2003); Judy C. Chang et al., Understanding Behavior Change for Women Experiencing Intimate Partner Violence: Mapping the Ups and Downs Using the Stages of Change, 62 PATIENT EDUC. & COUNSELING 330 (2006); Pamela Y. Frasier et al., Using the Stages of Change Model to Counsel Victims of Intimate Partner Violence, 43 PATIENT EDUC. & COUNSELING 211 (2001); Lois A. Haggerty & Lisa A. Goodman, Stages of Change-Based Nursing Interventions for Victims of Interpersonal Violence, 32 J. OBSTETRIC, GYNECOLOGIC, & NEONATAL NURSING 68 (2003); Lyndal Khaw & Jennifer Hardesty, Theorizing the Process of Leaving: Turning Points and Trajectories in the Stages of Change, 56 FAMILY RELATIONS 413, 413-14 (2007); Alice Kramer, Stages of Change: Surviving Intimate Partner Violence During and After Pregnancy, 21 J. PERINATAL & NEONATAL NURSING 285 (2007); Therese Zink et al., Medical Management of Intimate Partner Violence Considering the Stages of Change: Precontemplation and Contemplation, 2 ANNALS FAM. MED. 231 (2004)).

understanding the victim's mindset is key to informing a trier of fact and the prosecutor about why a case is proceeding as it is.

E. Trauma-Informed Prosecution

Throughout the prosecution, the prosecutor should be mindful of the effects that abuse-based trauma may have on a victim. The following discusses tactics the prosecutor may utilize during interactions with a victim so as not to re-traumatize or push the victim in an unfair, cruel, or disrespectful way.

1. Initial Interview

Trauma affects how memory is encoded, thus a victim of domestic abuse may suffer from memory challenges.⁹ Resources suggest that the proper approach in such situations is not to pressure the victim to remember details, but rather to ask questions to elicit more information. The prosecutor should remind the victim that holes in their memory are not their fault, but simply the result of how the brain responded to trauma. The prosecutor should remind the victim not "fill in holes" with assumptions or guesses, but rather to be honest about any gaps in their memory. This is not only a beneficial reminder for the victim but can also assist the prosecutor in ironing out uncorroborated details that can be cross-examined or assessing other issues with the case.

Victims of trauma are less likely to be able to recall and fill in memory gaps with brief meetings with pointed questions. The more fruitful approach would be a longer session in which the victim is allowed to drive the conversation to allow them to process the event on their own terms. Instead of driving the conversation with questions that could potentially damage the victim's memory, a prosecutor should listen and "loop back" with victims until a full factual cycle is complete.

2. Preparing for the Courthouse

The prosecutor or advocate should prepare the victim for the practical issues of the courthouse just as much as the legal realities. The victim may need information about:

- (1) Where to park
- (2) Where the courthouse is
- (3) Accessibility considerations (if applicable)
- (4) When the courthouse opens
- (5) How to find the courtroom
- (6) How to find the victim-witness advocate's center (if applicable)
- (7) That the courthouse has metal detectors at its entrance
- (8) That security may require them to take off belts, jewelry or watches
- (9) Security guards
- (10) Security cameras
- (11) The judge's emergency button
- (12) Where the parties sit in the courtroom
- (13) That the prosecutor may not be available to talk in-depth after a hearing due to other cases
- (14) That the prosecutor may tell them to limit their responses, which is not their fault
- (15) That objections during testimony are natural and normal and not their fault

While these measures may seem extensive, de-mystifying the courtroom experience may relieve stress about testifying as well as assure them that the prosecutor is concerned about their safety and well-being.

⁹ Eric M. Werner, Avoiding the Second Assault: A Guidebook for Trauma-Informed Prosecutors, 25.2 LEWIS & CLARK L. REV. 573 (2021).

Further, the prosecutor should make the victim aware of typical courtroom procedures such as standing when the judge enters, not being able to ask questions while the hearing is in progress, and the fact that the hearing is run by the attorneys. These measures will help a victim understand what is going on in their case, as well as boost their confidence on the stand.

3. Testifying

While the victim is testifying, the prosecutor should try to exercise stress-reducing measures as appropriate. This may include things like asking the victim if they need a moment to recollect themselves, bringing the victim a glass of water on the stand, giving them a box of tissues, or having the marshal/bailiff do so depending on the courtroom's procedures. Any act that gives a victim the space to collect themselves and de-stress will lessen the chance of them dissociating or entering a defensive mode on the stand.

Other things that research has shown may help include: making eye contact with the victim during testimony, which may allow them to focus on the prosecutor as opposed to other parties in the room; using visual aids so that attention is focused on the aid as opposed to the victim; and taking any other legally allowed steps to show the victim that they are safe.

F. Evidence-Based Prosecution

Due to the unique and complex dynamics of domestic violence, the victim may be unwilling or unavailable to cooperate at any point in the prosecution process. The burden of prosecuting domestic violence cases should be placed on the prosecutor and not the victim. Prosecutors should always expect the unexpected and be prepared for an evidence-based prosecution using evidence independent of the victim's testimony.

G. Speedy Prosecution

It is essential to the successful prosecution of domestic violence cases that trials occur as soon as possible, while being cognizant of a victim's schedule. The victim is often more willing to cooperate immediately after the incident, rather than later, when the abuser may have had a chance to reassert control over the victim. Additionally, delays in proceeding to trial increase the opportunity for additional offenses before resolution of the initial case. Therefore, prosecutors should strenuously object to any unnecessary continuances.

H. Working with Victim Advocates

Prosecutors handling domestic violence cases should work in close conjunction with victim advocates whenever possible and practical. Working with an advocate who has an ongoing relationship with the victim greatly facilitates communication between the prosecutor and the victim, making it more likely that the victim will continue to cooperate in the case and will provide the prosecutor with information helpful to protect the victim's safety during the proceedings. Victim advocates can provide important background information about the victim, the perpetrator, and the family circumstances which is helpful in the prosecution of the case and at sentencing.

In addition to facilitating communication between victims and prosecutors, victim advocates help ensure that victims obtain a higher level of justice, as victim advocates help victims meet their non-legal needs. The advocate's role includes informing victims about resources available to them and referring them to these resources. Therefore, advocates should be familiar with resources available in the community to address health, food, and shelter needs in addition to emotional needs, including safety planning for emergency relocation. Advocates should also be well-versed in explaining the process for obtaining temporary protective orders and crime victim fund

assistance, as well as explaining victims' rights.

It is important to understand the differences between system-based advocates (who are typically employed by the prosecutors' office) and community-based advocates (who work outside of the prosecutors' office, often for non-profit organizations). In enlisting the aid of a community-based victim advocate, prosecutors should remain mindful and respectful of the fact that, just as the victim's interests may differ from the prosecutor's, so may the interests of community-based victim advocates. For example, as part of the prosecution team, system-based victim advocates should be trained to disclose Brady material and any other exculpatory evidence. Conversely, community-based victim advocates will often not disclose what victims have told them in confidence.

I. Coordinated Community Response

The prosecutor's office should work closely with law enforcement agencies, domestic violence groups, and other community resources. Although prosecution is just one component of a coordinated community response to domestic violence, prosecutors are in a unique position to spearhead efforts to improve the criminal justice system's handling of domestic violence cases. Examples of a coordinated community response may include referral relationships, liaisons, task forces, inter-agency agreements, and multi-disciplinary training.

J. Translation and Cultural Competence

As domestic violence occurs in all racial and socio-economic groups, it is imperative to be able to easily communicate with all victims. Having regular communication with victims builds trust, reduces stress about the criminal justice process, and helps maintain cooperation with the victim. Ideally, jurisdictions should have victim advocates or prosecutors who can fluently speak common languages in their community. If this is not possible, prosecutor's offices should enlist the assistance of language lines or translation services to communicate with victims.

Cultural competence refers to the ability of all team members to work effectively with individuals from a variety of backgrounds. These include people from different racial, ethnic, cultural, religious, and socioeconomic backgrounds; individuals with various disabilities; and other groups. Cultural competency is improved with added knowledge, understanding, and awareness of one's own attitudes, perceptions, and other views. Prosecutors, advocates, and law enforcement officers must have the ability to work effectively with individuals from a variety of backgrounds. Having cultural competence involves understanding that there are differences between cultures and communities and learning how to most effectively interact with people from different cultures and communities. It is best practice to work to listen to and grow with the communities that are served, implement training programs, and identify and build on agency policies that promote understanding and awareness. Cultural competence can also be improved by hiring and recruiting team members with diverse experience and skillsets.

III. FILING CHARGES

In determining whether to file charges, which crimes to charge, and whether to charge them as misdemeanors, gross misdemeanors, or felonies, with or without enhancements, the prosecutor should consider and weigh a variety of factors.

Initially, the prosecutor should review all the facts of the case considering the following:

- Existence and seriousness of the injuries and/or threats;
- Use of a weapon (including furniture or other household objects);

- Any history of violence by either party, including prior convictions;
- Any history of control or manipulation of the victim by the defendant;
- Vulnerability of the victim (pregnant, elderly, youth, disability etc.);
- Presence and proximity of children at the location of the violence;
- Careful determination of the identity of the “primary physical aggressor” (dominant aggressor), if any (See Appendix A);
- Potential lethality in the context of the relationship as a whole (See Appendix B);
- Strength of the case and the ability to prove the case beyond a reasonable doubt.

Where probable cause exists, the filing of criminal charges must be considered. In the filing determination, prosecutors should, at a minimum, consider the existence of any of the following types of corroborating evidence:

- Any evidence of physical injury, including photographs
- Any evidence of a party seeking medical attention, including medical records of injuries
- Witnesses who observed the incident or the injuries, including competent children
- Witnesses who heard sounds indicating that violence was taking place, i.e., screams, pounding noises, furniture being thrown, windows breaking
- Witnesses who had contact with the victim or suspect contemporaneous with or immediately after the incident
- Audio recordings, including 911 tapes, voice messages, monitored jail telephone calls
- Physical evidence, i.e., weapons, broken furnishings, torn clothing
- Admissions or other statements by the perpetrator
- The existence of a timely report by the victim, or reasons for delay
- Photographs of the crime scene
- Spontaneous utterances by any person
- Demeanor of all persons
- Flight of either party
- Presence or absence of written statements
- Body worn camera footage
- Video or audio recordings at or near the time of the incident (cell phones, Ring doorbells, etc.)

When a basis for filing charges exists, the prosecutor should determine whether to charge a felony or misdemeanor. As domestic violence incidents often constitute felonies, the prosecutor should charge accordingly. The prosecutor should also consider charging crimes, previous or concurrent, committed against the same victim if they occurred within the applicable statute of limitations. Careful consideration should be given to charging stalking, harassment, or aggravated stalking charges if there is a pattern of behavior which supports such charges.

City Prosecutor's Offices should coordinate with their jurisdiction's District Attorney's Office regarding how to handle misdemeanor submittals that should be charged as a felony. There should be a process in place to allow the filing of felony charges if the case merits it. This will prevent any potential double jeopardy claims. If a defendant has been charged by more than one prosecutorial agency with a crime of violence against the same victim, the agencies should collaborate regarding the victim's court appearances and discuss potential joint resolutions.

IV. PROCEDURE

A. Review of Arrest Cases

In all cases in which an arrest has been made and prosecution is warranted, a criminal complaint and/or indictment should be filed in a timely manner.

If, after reviewing and weighing the factors set forth above regarding filing charges, the prosecutor elects not to file charges, they should document the reasons why charges were not filed.

B. Review of Nonarrest Cases

If an officer has probable cause to believe that domestic violence has occurred and the defendant is present, they must make an arrest. However, perpetrators of domestic violence commonly flee the scene prior to officers' arrival. In domestic violence cases, if officers do not have face-to-face contact with the perpetrator at the time of the battery, they have up to 7 days to make an arrest. NRS 171.137.

If probable cause exists and no arrest is made, law enforcement should still submit the case to the prosecutor's office for review. The prosecutor's office should establish a mechanism to review all domestic violence cases in which no arrests were made for the possible filing of charges. If charges are filed, the decision to seek an arrest warrant or summons should be based upon considering the circumstances of the case and jurisdictional practices. Some prosecution offices prefer to issue a warrant, rather than a summons, since NRS 171.137 outlines arrest for domestic violence whether or not a warrant has been issued, unless mitigating circumstances exist. Some offices prefer to not issue warrants to avoid speedy trial violation issues.

Every case of battery constituting domestic violence requires a mandatory twelve (12) hour hold upon arrest, regardless of when the arrest occurs (i.e. on scene or via an arrest warrant). NRS 178.484. If charges are not filed, and the prosecutor observes deficiencies in the investigation, the prosecutor should inform the law enforcement agency of the deficiencies. Where prosecutors observe that law enforcement agencies are not making arrests when appropriate, the prosecutor should encourage and train agencies to upgrade arrest practices in domestic violence cases to conform to NRS 171.137.

V. CASE PREPARATION

CAVEAT: DIRECT PARTICIPATION BY A PROSECUTOR IN THE INVESTIGATION OF A

CASE OR IN THE COLLECTION OF EVIDENCE CAN TURN THE ATTORNEY INTO A WITNESS, UNABLE TO PROSECUTE THE CASE, AND CAN STRIP THE ATTORNEY OF PROSECUTORIAL IMMUNITY.

Allowing for available resources, preparation of a domestic violence case for trial involves a thorough investigation which should include the following:

A. Ascertain Victim's Whereabouts

Victims of domestic violence are often forced to move with little or no notice, due to attempts to hide from abusers. It is important for the prosecutor's office to be kept informed of the victim's whereabouts. The prosecutor's office should establish relationships with any agencies providing victim shelter services and understand their respective processes for the release of information.

When the victim is first contacted, the prosecutor or victim/witness staff should stress the importance of keeping the office informed of any address or phone number changes. Addresses and phone numbers of close friends, coworkers, or relatives who can serve as contact persons should be obtained in case the victim has to move suddenly and is unable to notify the prosecutor's office. Additional resources for locating victims may be available through animal control or other licensing authorities, utility or cable companies, felon registration authorities, traffic and other court records, DMV records, credit history records, school records, internet addresses, and businesses frequented by the victim.

INFORMATION REGARDING THE VICTIM'S WHEREABOUTS OR CONTACT PERSONS SHOULD BE KEPT CONFIDENTIAL.

B. Build on Police Investigation

Additional possible investigation includes:

- a. Obtain and review any police reports immediately for accuracy and detail.
- b. Obtain any 911 recordings and body camera or other footage for its potential evidentiary value, including: impeachment of recanting victims, identification of additional witnesses, and admissions, threats, or other excited utterances.
- c. If the investigation by the police was incomplete, request follow-up investigation in writing to obtain additional information, including: witness statements and contact information, photographs, and information on responding medical personnel. Explain why the information is needed to prosecute the case. This will serve to complete the pending case and to train the officer for future investigations.
- d. Obtain information from the victim as to the identity and location of any corroborating witnesses.
- e. Be mindful that matters of evidentiary value may exist on social media platforms (e.g., Facebook, Instagram, Snapchat, Twitter, Tumblr, TikTok, etc.), text messages or messaging apps, and voicemails.
- f. Review prior arrest reports to assess any claims of self-defense.
- g. Order Certified Temporary or Extended Protective Orders.

C. Physical Evidence

The victim and any witnesses should be questioned closely about any physical evidence such as torn, wet, or bloody clothing; weapons used in the incident; damaged property; or of answering machine tapes, voicemails, text messages, or any social media posts containing statements, threats,

harassment, or potential admissions of the defendant. To preserve physical evidence for trial, the prosecutor should immediately request that an investigator or law enforcement officer obtain items of physical evidence not originally obtained by law enforcement.

D. Pleadings and Transcript From Protection Order Proceedings

If a request for a Temporary or Extended Protection Order was made, the prosecutor should review the pleadings for supplemental information and evaluate if any additional charges should be filed. The prosecutor should find out if there were hearings on a request for a Temporary or Extended Protective Order, or on contempt proceedings for violation of the Protective Order. It is important to obtain transcripts which may contain admissions of the defendant, material for impeachment or cross-examination, or descriptions of the incident or past incidents of violence. Most courts throughout Nevada utilize Justice AV Solutions (JAVS) for digital recordings of all legal proceedings. The prosecutor should obtain copies of JAVS recordings from the TPO or EPO hearings.

Beware: There are double jeopardy implications in pursuing contempt sanctions and criminal charges simultaneously if such actions arise out of the same transaction or occurrence. See U.S. v. Dixon, 509 U.S. 688 (1993).

Every office should set a policy regarding prosecution of Protection Order violations and should do so with close communication with the issuing court.

E. Ascertain Defendant's Criminal History and/or History of Domestic Violence

Whether or not the defendant has any prior convictions, they may have a lengthy history of acts of domestic violence against the present victim or other victims, which may include prior Protection Orders against the defendant. This information is important for the purpose of enhancement, bail arguments, determining the potential lethality of the present charge, and proposing appropriate sentences to the court. The prosecutor should seek admission of this information at trial or sentencing as applicable. In contemplation of the introduction of prior bad act evidence at trial, a prosecutor should review NRS 48.045 and relevant case law.

The Nevada Supreme Court has explained that evidence of a pattern of domestic violence may be admissible to explain “the relationship dynamics between a domestic-violence victim and the accused.” See Newman v. State, 129 Nev. 222, 223 n.2, 298 P.3d 1171, 1179 n.2 (2013). If a prosecutor seeks to admit evidence of other domestic violence, the prosecutor should file a motion and seek a Petrocelli hearing to admit the evidence under NRS 48.045 and NRS 48.061.

VI. PRETRIAL ISSUES

A. Arraignment / Bail Conditions

Ideally a prosecutor should attend all initial appearances and arraignments in domestic violence cases. Before a court makes a determination regarding bail, a victim may request a no-contact order. NRS 178.4845. Courts should make arrangements to allow victims to make this request prior to any pretrial detention hearings or arraignments.

The legal presumption is to impose the least restrictive means on a defendant for pretrial release. It is critical that a prosecutor know the statutory factors considered by the court in determining whether bail should be set. See NRS 178.4853. Each domestic violence case should be viewed in light of NRS 178.498 and 178.499 to determine if a bail increase is appropriate. In addition to the statutory

considerations, the prosecutor should recommend the following conditions for any release where appropriate:

- A prohibition on any contact with the victim and/or the victim's children and other relatives in person; by telephone, email, and/or social media; or by contacting the victim indirectly through a third party.
- An order barring the defendant from approaching the victim's residence, school or place of employment.
- A prohibition on the defendant destroying or disposing of the victim's property or property held in common.
- A prohibition on drugs, alcohol, and/or weapons.
- In jurisdictions with a Department of Alternative Sentencing (DAS) created pursuant to NRS Chapter 211A, an order placing the defendant under the supervision of DAS and subject to search and seizure without a warrant for the possession of prohibited drugs, alcohol, or weapons.
- An order that the defendant wear an alcohol monitoring device.
- An order that the defendant wear a GPS monitoring device.
- An order that the defendant must provide his current address and phone number to court pretrial services, DAS, or as otherwise ordered, and must notify that agency within 24 hours of any change in address or phone number.
- Any other conditions necessary for the victim's safety.

Any potential threat to the future safety of the victim and victim's family must be considered by the prosecutor before making an appropriate bail recommendation and requesting conditions of release.

B. Body Worn Camera Footage

Pursuant to NRS 289.830, all Nevada law enforcement agencies wear body worn cameras during public interactions. Body worn camera footage review is vital to provide nuances of the case as officer reports about admissions and statements are generally summarized. Body worn camera footage can also show both the victim's and defendant's demeanor. The footage can also be compelling evidence to the factfinder (judge or jury).

VII. PROTECTING THE VICTIM

The prosecutor, in conjunction with the victim advocate, should make every effort to protect the safety of the victim. These efforts should include, but are not limited to, the following:

A. Confidentiality of the Victim's Address

The prosecutor should zealously protect the confidentiality of any change of the victim's address and telephone number and this information should be redacted from police reports, witness statements, and all other discovery materials provided to the defense. In court, prosecutors should never ask victims to disclose their current address, should advise victims to refrain from giving an

address when testifying to avoid inadvertent disclosure, and should object to requests for such information when made in the course of questioning by the defense.

If filed with the court, victims' addresses should not be placed on subpoenas or returns of service, or any other public document, to avoid disclosure of their locations to defendants.

Of course, prosecutors have obligations to disclose lists of witnesses and witness addresses. However, NRS 174.234(5) allows an exception in cases in which harm may come to the person whose address is disclosed. The statute reads:

Upon a motion by either party or the witness, the court shall prohibit disclosure to the other party of the address of the witness if the court determines that disclosure of the address would create a substantial threat to the witness of bodily harm, intimidation, coercion or harassment. If the court prohibits disclosure of an address pursuant to this subsection, the court shall, upon the request of a party, provide the party or the party's attorney or agent with an opportunity to interview the witness in an environment that provides for protection of the witness.

Prosecutors should consider moving to prohibit the disclosure of domestic violence victims' addresses.

B. Personal Service of Subpoenas

In the absence of an oral promise to appear, any subpoena going to the victim should be personally served to avoid the possibility of the defendant intercepting it in the mail.

C. Designated Waiting Areas in Court

NRS 178.5696 requires that the court provide separate and secure waiting areas for victims, so they are not subject to harassment or intimidation by the defendant immediately prior to testifying. If this mandate is not being met, the prosecutor should bring this requirement to the court's attention. Additionally, prosecutor offices should take care to ensure victims do not inadvertently run into defendants in common areas such as parking structures, lobbies, and scanners.

D. No Contact Orders

If appropriate, the prosecutor should request no contact orders as a condition of a defendant's release on bail. Per NRS 178.4845 prosecutors should request revocation of bail and consider filing misdemeanor charges for any violation of such orders. In addition, the prosecutor's office should advise the victim of the availability of Protective Orders and explain the merits of such orders. NRS 200.591 provides for both pre-trial and post-conviction "stay away" orders in stalking and harassment cases; violation of such an order is a gross misdemeanor.

E. Child Custody Considerations

Prosecutors need to be aware of the unique danger faced by domestic violence victims in the child custody context. One characteristic which distinguishes domestic violence from other crimes is that the victim and perpetrator frequently have children together. Thus, perpetrators often have long term, court-sanctioned access to victims pursuant to child custody orders which give them partial custody or visitation rights. New crimes are often committed as a result of this ongoing contact. Alternatively, if no custody order is in effect, the perpetrator has as much access to the children as the victim and may use the threat or actuality of taking them to assert control over the victim.

Protection Orders can also be obtained to protect the victim, secure temporary custody of shared

children, and impose protective conditions such as third party or supervised visitations, or supervised exchanges of custody. Victim advocates should also be prepared to refer victims to resources to obtain child custody orders.

G. Domestic Strangulation

Under Nevada law, Domestic Battery by Strangulation is controlled by NRS 200.481(1)(h), which states that “Strangulation” means intentionally applying sufficient pressure to another person to make it difficult or impossible for the person to breathe, including, without limitation, applying pressure to the neck, throat or windpipe that may prevent or hinder breathing or reduce the intake of air, or applying any pressure to the neck on either side of the windpipe, but not the windpipe itself, to stop the flow of blood to the brain via the carotid arteries. While a typical domestic battery is punishable as a misdemeanor in Nevada, a domestic battery by strangulation is categorized as a Category C felony, punishable by 1-5 years in the Nevada State Prison and a fine of up to \$15,000. While NRS 193.130 states that the maximum fine for a Category C felony is a fine of up to \$10,000, NRS 200.485(2) grants a fine of up to \$15,000. Furthermore, NRS 200.481(2)(g)(2) states that if a domestic battery by strangulation is committed by a probationer, then the action is punishable by a Category B felony with a penalty of 2-15 years in the Nevada State Prison.

While not all domestic batteries that involve choking or grabbing by the neck may rise to a felony level offense, the misdemeanor prosecutor is often the initial attorney to evaluate a case for the proper level of prosecution. Therefore, there is an important responsibility of City Attorneys to properly evaluate an offense and decide whether it needs to be referred to the county District Attorney for prosecution as a felony case.

Problems arise with this obligation, as “strangulation” is not always apparent at the time of arrest as compared to a misdemeanor battery that involves grabbing around the throat or neck area. According to a study performed by the City of San Diego in the late 1990s, there were few visible injuries to corroborate a strangulation case.¹⁰ Therefore, the San Diego study concluded, many strangulation cases were not given the proper level of prosecution.

While visible injuries were noticeable in a small percentage of the cases at arrest, they were often too subtle to photograph and identify at the time of emergency intervention in the case. Thus, it becomes important for the misdemeanor prosecutor to seek follow-up evidence to support a felony prosecution of an offender.

Forensic Strangulation Examinations by forensically trained nurses and doctors can assist in determining whether there are external and/or internal signs of strangulation. Per NRS 217.405 this exam should be free to the victim and should be paid for by the county in which the strangulation occurred.

Typical symptoms of a strangulation are as follows:

- (1) **Difficulty in swallowing or breathing:** Although breathing changes may seem minor at the time of police intervention, underlying injuries may cause severe problems, up to and including death, up to 36 hours after the initial attack.
- (2) **Visible injuries:** The injuries would include scratches, abrasions, scrapes or bruising. These can be caused both by the assailant’s actions or the victim’s actions in trying to fight off the

¹⁰ Strack GB, McClane GE, Hawley D. A review of 300 attempted strangulation cases. Part I: criminal legal issues. J Emerg Med. 2001 Oct;21(3):303-9. doi: 10.1016/s0736-4679(01)00399-7. PMID: 11604294.

attacker. Issues arise because bruising and redness may not be immediately noticeable or may be minor in comparison with the actual damage that was inflicted. Bruising from strangulation may not appear for hours or days after an attack and may be light-colored bruises compared to a bruise that would occur from a punch or more direct injury to the body. It is also important to look for abrasions on the chin, as a victim of strangulation will often instinctively lower their chin to protect the neck, resulting in scrapes against the chin caused by the assailant's hands.

- (3) **Petechiae:** Petechiae are red marks caused by the rupture of small blood vessels called capillaries. Petechiae may be seen in the eyes, often under the eyelid. However, in more severe cases, it may be seen around the eyes in the orbital region or other areas of the face.
- (4) **Swelling:** Swelling may take several hours to appear based on trauma to the underlying muscle structure of the throat and neck.
- (5) **Lung Damage:** Victims may suffer from damage caused by aspiration of vomit during the strangulation episode which can cause damage to lining of the throat and lungs, along with edema (lungs filling with fluid) caused by trauma to the respiration systems.

Therefore, it is important for misdemeanor prosecutors to perform follow-up investigation when there is any indication of choking or strangulation in a domestic battery case. This information can be gathered from both medical professionals and the victim. If subsequent injuries are apparent, or symptoms of the initial injury become more severe, prosecutors should consider referring a misdemeanor case to the District Attorney for consideration of treating the offense as a felony, rather than a simple misdemeanor domestic battery.

VIII. VICTIMS' RIGHTS

Prosecutors should be familiar with victims' constitutional and statutory rights, which are especially important in a domestic violence context.

Additional statutory rights include:

- Right, upon written request, to notice of any release of defendant from pre-trial custody, amount of bail, and disposition of charges [NRS 178.5698]
- Right to secure waiting areas at court separate from those used by jurors, defendants and their families [NRS 178.5696(1)]
- Right to an attendant to provide support in court during testimony [NRS 178.571]
- Right to notice of the date of sentencing [NRS 176.015(4)] and to be heard at sentencing after the defendant and/or his counsel speaks [NRS 176.015(3)]
- Right to notice of the disposition of harassment and stalking cases [NRS 200.601(1)] and a certified copy of any no contact order imposed as a condition of sentencing [NRS 200.601(2)]
- Right to notice within 30 days of the defendant's conviction under NRS 205.980 and resulting civil liability for damage to the victim's property [NRS 205.980(3)]
- Right, upon written request, to notice of the date of any meeting to consider the

defendant for parole and to submit documents and be heard at the meeting [NRS 213.130(4)]

Additionally, prosecutors should be familiar with the Rights of Victims of Crime outlined in the Nevada Constitution. art. I, 8A ("Marsy's Law"):

1. Each person who is the victim of a crime is entitled to the following rights:

(a) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process.

(b) To be reasonably protected from the defendant and persons acting on behalf of the defendant.

(c) To have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant.

(d) To prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim's family.

(e) To refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

(f) To reasonably confer with the prosecuting agency, upon request, regarding the case.

(g) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings.

(h) To be reasonably heard, upon request, at any public proceeding, including any delinquency proceeding, in any court involving release or sentencing, and at any parole proceeding.

(i) To the timely disposition of the case following the arrest of the defendant.

(j) To provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

(k) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody.

(l) To full and timely restitution.

(m) To the prompt return of legal property when no longer needed as evidence.

(n) To be informed of all postconviction proceedings, to participate and provide

information to the parole authority to be considered before the parole of the offender and to be notified, upon request, of the parole or other release of the offender.

(o) To have the safety of the victim, the victim's family and the general public considered before any parole or other postjudgment release decision is made.

(p) To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim.

(q) To be specifically informed of the rights enumerated in this section, and to have information concerning those rights made available to the general public.

2. A victim has standing to assert the rights enumerated in this section in any court with jurisdiction over the case. The court shall promptly rule on a victim's request. A defendant does not have standing to assert the rights of his or her victim. This section does not alter the powers, duties or responsibilities of a prosecuting attorney. A victim does not have the status of a party in a criminal proceeding.

3. Except as otherwise provided in subsection 4, no person may maintain an action against this State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of this section or any statute enacted by the Legislature pursuant thereto. No such violation authorizes setting aside a conviction.

4. A person may maintain an action to compel a public officer or employee to carry out any duty required by this section, or any statute enacted by the Legislature pursuant thereto.

5. The granting of these rights to victims must not be construed to deny or disparage other rights possessed by victims. A parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.

6. The Legislature shall by law provide any other measure necessary or useful to secure to victims of crime the benefit of the rights set forth in this section.

7. As used in this section, "victim" means any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf, except that the court shall not appoint the defendant as such a person.

A. Recommended Notification

The prosecutor's office should be responsible for assisting the victim in creating an account with NV VINE¹¹ via the website, phone number: 888-268-8463 or the mobile app VINELink and putting a watch on their offender so the victim can be notified in a timely fashion of developments in the case, including, but not limited to, the following:

¹¹ <https://www.vinelink.com/#state-selection>

- Nature and type of charges filed
- *Any* changes in the defendant's custodial status, including any short-term release
- Date, in advance, of any court hearing in which the victim may have an interest, including bail hearings and sentencing
- Outcome of all court appearances at which the victim was not present, including continuances, bail hearings, and motions.

B. Victim Input

The prosecutor should actively seek victim input throughout the pendency of the case. In particular, victim impact statements emphasizing the continuing risk of harm to the victims and their family should be utilized. In those cases, the prosecutor should make sure the victims' opinions are solicited and considered at sentencing. Further, after hearing statements from the defense counsel at sentencing, NRS 176.015(3) requires the court to provide the victim the opportunity to provide testimony reasonably expressing any views concerning the crime, the person responsible, the impact of the crime on them, and the need for restitution.

Prosecutors should be aware that even in the most serious cases, the victim may try to minimize the violence. While the victim should be listened to with compassion, prosecution of the case should never be dismissed or deferred based solely upon a victim's assessment of the violence. The prosecutor should consider the victim's input and concerns about the potential resolution of the case, including trial, although it remains the prosecutor's decision regarding how to resolve any particular case.

C. Crime Victim Compensation / Restitution

The prosecutor should seek restitution when it is legally available. The prosecutor should notify the victim of the availability of crime victim compensation under NRS chapter 217 and make appropriate referrals for assistance in obtaining it.

Under NRS 205.980, a person convicted of any crime involving damage to property is civilly liable for the amount of damage done to the property, and an order of restitution signed by the judge in whose court the conviction was entered shall be deemed a judgment against the defendant for the purpose of collecting damages.

IX. VICTIM / PROSECUTOR CONTACT

A member of the prosecutor's office, preferably a victim advocate, should attempt to contact the victim at the earliest possible opportunity to discuss any concerns and orient the victim to the process and available resources.

Many prosecution offices lack the resources and staffing to have in-person contact with all victims prior to court hearings. These offices should consider other methods of contact. Different methods of contact offer distinct benefits:

- **Face-to-face** - This method offers the best opportunity to establish a rapport with the victim, determine the victim's potential impact on the case and assess the potential future risk and lethality of the situation.

- **Telephonic** - This method also offers an opportunity to dialogue with the victim if face-to-face contact is not possible.
- **Written** - Although one-sided, this method allows information regarding the process and available resources to be conveyed in a consistent, comprehensive manner. It also allows the victim to review the information multiple times.

The prosecutor should determine on a case-by-case basis which method of contact is most appropriate and feasible.

The prosecutor's office should explain that the ultimate responsibility for prosecuting a case lies with the prosecutor, not the victim, and that the case may proceed without victim cooperation. It is important that this message be communicated as it may relieve pressure to drop charges. The prosecutor's office should also carefully explain the sentencing alternatives, negotiated pleas, and provisions for the victim's protection during the pendency of the case.

In the event the victim is reluctant to participate, prosecutors should keep in mind the goals of prosecution set forth in Section I.

X. TRIAL ISSUES AND STRATEGIES, INCLUDING EVIDENCE-BASED PROSECUTION¹²

As previously discussed in this guide, there are many reasons that it is common for victims to refuse to participate in the prosecution process. In such cases, the prosecutor must make the determination as to whether they are able to proceed with prosecution. With the thoughtful use of hearsay exceptions and a strong understanding of the application of the Confrontation Clause, such cases may be proveable without testimony or cooperation from a victim.

Prosecutors may be able to proceed by use of evidentiary tools available, such as non-hearsay and hearsay exceptions, the use of medical and expert testimony, and the use of other witnesses. Prosecutors should become experts in these tools and the requirements of each (e.g., laying the foundation for introduction). Common non-hearsay includes prior consistent statements, prior inconsistent statements, and admissions by the party opponent. Common exceptions to hearsay include present sense impressions, excited utterances, statements made for the purpose of medical diagnosis or treatment, and recorded recollections.

A. Forfeiture by Wrongdoing

Where the defendant causes the victim to not appear at trial and where the prosecutor can prove the defendant caused the victim to evade the subpoena, the prosecutor may invoke the principal of "forfeiture by wrongdoing." If the defendant has engaged in conduct with the intent to prevent the victim's attendance at trial, the defendant loses the safeguard created by the Confrontation Clause. (Giles v. California, 554 U.S. 353 (2008); Reynolds v. U.S., 98 U.S. 145 (1879)). As a result, the defendant forfeits the ability to object to the victim's testimonial hearsay statements and, by the defendant's own actions, eliminates the opportunity to cross-examine those statements.

Forfeiture by wrongdoing may present itself in multiple facets — jail calls, pictures, letters to the victim or the victim's family, journal entries, emails, voicemail messages, postings on social media,

¹² Evidence-based prosecution is sometimes referred to as "victimless prosecution". That phrase has fallen out of use because it minimizes the importance of helping the victim through victim advocacy services for all victims and their children. Even when the prosecutor decides to proceed with a case without the victim's participation, every effort should be made to offer the victim advocacy services.

interactions between the victim and advocate, or interviews between police and the victim or the victim's family or friends. Prior to admitting the victim's statements at trial the prosecutor should proffer to the court, or prove up through witness testimony, that the victim is unavailable; proffer the due diligence used in trying to obtain the victim's presence for court; call witnesses and present evidence that the defendant's actions were responsible for the victim's unavailability at trial. The process and standard of proof are outlined in Anderson v. State:

[T]o apply the forfeiture-by-wrongdoing exception to the Confrontation Clause, a trial court must find by a preponderance of the evidence that a witness is unavailable, the defendant engaged in conduct that procured the witness's unavailability, and the defendant acted with intent to procure the witness's absence. We additionally conclude that the trial court must take evidence and argument from the prosecution and defense outside the presence of the jury to reach its finding.

135 Nev. 417, 424, 453 P.3d 380, 386 (2019).

Recorded jail calls often show manipulation by the defendant to get the victim to recant or refuse to cooperate with the prosecution. Often these recordings reflect a plan that the victim and defendant construct for recantation, including redefining the event to protect the defendant and planning what to say throughout the process. The calls may also reveal important admissions regarding the incident from the victim and/or defendant. Victim advocates can prepare victims and empower victims to protect against this manipulation, by intervening early and linking victims to support services.

Jail call recordings may also provide strong evidence to use at trials or forfeiture by wrongdoing hearings. Jail call recordings may also provide evidence of additional crimes should the defendant threaten or dissuade a victim. Prosecutors should make every effort to listen to jail calls, especially prior to critical stages of the case.

B. Hearsay & Confrontation Clause Issues

Where the victim is unavailable for court, the two most common objections a prosecutor must overcome in admitting a victim's statement are hearsay and the invocation of the defendant's right of confrontation. However, there are exceptions to both hearsay and the Confrontation Clause which may make the admissibility of the victim's statement feasible.

1. Overcoming Hearsay

Prosecutors should anticipate hearsay objections and be prepared to lay the appropriate foundation for hearsay exceptions to admit some or all the victim's statements at trial. Hearsay exceptions for which the availability of the declarant is immaterial, which are commonly used in the context of domestic violence victim statements include:

- Excited utterances NRS 51.095
- Present sense impressions NRS 51.085
- Statements of then existing mental, emotional, or physical condition NRS 51.105
- Statements for the purposes of medical diagnosis or treatment NRS 51.115

Many raw, initial statements by victims will fall under the exception for excited utterances. NRS 51.095 defines excited utterance as "a statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition."

In domestic battery cases, excited utterances generally take form in the victim's 911 call or initial statements made to law enforcement on-scene. In analyzing whether a statement falls under the

excited utterance exception several factors should be evaluated:

- **The contents of the 911 call.** Is there a battery in progress, is the victim in immediate need of assistance, is the victim's safety otherwise in jeopardy?
- **The amount of time which has elapsed** between when the 911 call is received and when law enforcement makes contact with the victim. Clearly, the more time which has elapsed the less likely that the victim's statements will be admitted under excited utterance.
- **The demeanor of the victim.** Is the victim crying, hysterical, short of breath? The more the victim appears to be influenced by the stress of the event, the more likely that any statements will fall under excited utterance.
- **The physical condition of the victim.** Is the victim actively injured, bleeding, nursing injuries, huddled in the corner? Injuries that tend to prove recency of the event are more likely to make accompanying victim statements admissible.

2. Confrontation Clause—Victim's 911 call and Statements to Police On-Scene

Even if a prosecutor has overcome the hearsay hurdle, the defense attorney will surely invoke the client's right of confrontation. However, there are options to admit the victim's 911 and on-scene statements.

a. Crawford and its Progeny

In Crawford v. Washington, 541 U.S. 36 (2004), the Court held that the Sixth Amendment Confrontation Clause dictates that testimonial statements are inadmissible at trial against the accused unless:

- (1) the witness is unavailable; and
- (2) the Defendant had a prior opportunity to cross-examine the witness (Id. at 68).

"Unavailability" requires that the proponent of the evidence demonstrate that he or she was unable to procure the attendance of the witness at trial, despite reasonably diligent efforts. (See, e.g. Christian v. Rhode, 41 F.3d 461, 467 (9th Cir. 1994)). "Prior opportunity" to cross-examine generally means that the defendant must have had a prior chance to develop the witness's testimony. (See United States v. Yida, 498 F.3d 945, 950 (9th Cir. 2007)).

Since Crawford, additional cases have provided guidance as to when statements are considered testimonial. In Davis v. Washington, 547 U.S. 813 (2006), a 911 operator received information from the victim that she was actively being battered by her former boyfriend. During the initial portion of the 911 call, the suspect was on scene, but as the call progressed the suspect fled. Officers made contact with the victim within four minutes of the 911 call being placed. They observed the victim to have what appeared to be fresh injuries; they observed she was shaken and frantic. The victim failed to appear for trial, but the court allowed the portion of the 911 recording where the defendant was present to be admitted at trial. In upholding Davis' conviction, the United States Supreme Court distinguished between testimonial and non-testimonial statements saying that:

[S]tatements are non-testimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency. They are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.

Id. at 822, 126 S.Ct. at 2266. The Supreme Court ruled that the conversation between the 911 operator and the victim, prior to the suspect leaving the scene were non-testimonial and therefore admissible. Id.

Since Davis, the Court has further clarified what is considered testimonial and when “the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency.” In Michigan v. Bryant, 562 U.S. 344 (2011), police were dispatched to a gas station where they found the victim mortally wounded. Prior to perishing, law enforcement inquired into “what happened, who had shot him, and where the shooting had occurred”. The victim told law enforcement that he had been shot by the Defendant and where the incident occurred. The United States Supreme Court held that the description of the shooter and the location of the shooting were not testimonial statements because the “primary purpose” was “to enable police assistance to meet an ongoing emergency” and therefore did not violate the Confrontation Clause.

The Supreme Court went on to state that the primary purpose determination is highly context specific and should objectively take into account all of the relevant circumstances. Moreover, while the existence of an “ongoing emergency” at the time of the encounter is the most important factor informing the interrogation’s primary purpose, there may be other circumstances in which a statement is not procured with a primary purpose of creating an out-of-court substitute for trial testimony.

Specifically, the Supreme Court found the following factors persuasive in determining the primary purpose of the interrogation in Bryant:

1. A victim’s medical condition—a victim’s injuries may be so debilitating as to prevent the victim from thinking sufficiently clearly to understand whether the statements are for the purpose of addressing an ongoing emergency or for the purpose of future prosecution;
2. Existence and magnitude of a continuing threat to the victim and the public—the suspect was armed and at large. However, the Court did distinguish the typical domestic violence case which often have a narrower zone of potential victims than cases involving threats to public safety;
3. Informality of the encounter between victim and law enforcement (e.g. hasty fact gathering at scene of violence versus formal interview at police station)—formality suggests the absence of an emergency, but informality does not necessarily indicate the presence of an emergency;
4. Context of the questions posed by law enforcement—elicited statements may be necessary to be able to resolve the present emergency, rather than simply to learn what had happened in the past;
5. Statement and actions of both the declarant and the interrogators provide objective evidence of the primary purpose of the interrogation (e.g. law enforcement arrives on scene within minutes versus hours later; victim describing events as they are unfolding versus past criminal acts now being investigated; victim was seeking help for a current danger; victim frantic and shaken versus calm and collected).

b. Practical Application of the Confrontation Clause to Victim Statements

Practically speaking, there are typical scenarios a prosecutor may encounter when faced with a Confrontation Clause issue:

Situation #1: Law enforcement responds to a 911 call; upon arrival the victim is visibly upset, and the defendant has fled the scene.

- **Bryant:** “The Michigan Supreme Court erroneously read Davis as deciding that the statements made after the defendant stopped assaulting the victim and left the premises did not occur during an ongoing emergency.” (Id. at 363).
- **Key factors:** 911 call, visibly upset victim, potentially injured victim, defendant’s location is unknown posing possible danger to kids, family members or victim should defendant return.

Situation #2: Law enforcement responds to 911 call, parties involved in altercation are *not* separated, visibly upset and/or injured victim responds to “what happened” question by law enforcement.

- **Bryant:** “we consider the informality of the situation and the interrogation...the situation was fluid and somewhat confused: the officers arrived at different times” indicating that the primary purpose remained responding to an ongoing emergency. (Id. at 377).
- Officers’ immediate concern is securing the scene to eliminate threats to the victim, officers and the public.
- The typical “what happened” question is the exact type of question necessary for law enforcement to figure out what caused the emergency and to determine what action should be taken to prevent further harm.
- **Key factors:** 911 call, distressed and/or injured victim, ascertaining victim’s safety, potential for other suspects or victims, informality of interrogation.

Situation #3: Law enforcement responds to a 911 call, parties involved in altercation are separated, visibly upset and/or injured victim responds to “what happened” question by law enforcement.

- Separation is part of the response to the emergency, for law enforcement to ascertain what the emergency is and to get honest and complete answers from all parties involved.
- Primary purpose is to neutralize a potentially dangerous situation.
- **Key factors:** 911 call, distressed and/or injured victim, establishing victim’s safety, potential other suspects or victims, informality of interrogation.

Situation #4: Law enforcement responds an hour later to reported “domestic disturbance”, parties involved in altercation are separated and no objective need for medical attention.

- Statements by victim are likely testimonial.
- **Hammon**, 547 U.S. 813, 814-15 (2006)—Since there was no emergency in progress at the time law enforcement arrived on-scene, the primary purpose of the investigation was to investigate a possible crime.

Statements a victim makes to non-law enforcement witnesses are often not testimonial. A testimonial statement is defined as a statement about a past event or fact that the declarant would reasonably expect to be used later in a criminal prosecution. A victim who makes a formal statement to government officers bears testimony in the sense that a person who makes a casual remark to an acquaintance does not. (Crawford at 51).

A victim’s friends or family members are oftentimes very useful to prosecution as they may have been physically present with the parties during the altercation, they may have been on the phone with the

victim as the altercation was occurring or they may have observed the victim immediately following the altercation. These witnesses can usually identify the respective parties (or their voices on a 911 call) and their relationship, describe the demeanor of the victim in person or over the phone during the altercation, describe the victim's demeanor immediately following the incident or detail the physical injury which resulted and evolved in the days following the incident.

Medical records also provide an avenue for proving domestic violence cases where a victim is unavailable for trial. Certified medical records are generally admissible pursuant to the business records exception to the hearsay rule. (NRS 51.135). Furthermore, medical personnel who made firsthand observations of the victim's physical condition may testify to their observations. Likewise, the Confrontation Clause is not implicated because statements made to a medical professional for treatment are not testimonial. Additionally, pursuant to NRS 51.115, "statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof are not inadmissible under the hearsay rule insofar as they were reasonably pertinent to diagnosis or treatment." In fact, the Nevada Supreme Court has held that some statements made to medical or psychological personnel about crimes are non-testimonial and admissible as statements made for the purpose of medical diagnosis or treatment. Chavez v. State, 125 Nev. 328, 343, 213 P.3d 476, 487 (2009).

The American Medical Association Guidelines require physicians to inquire into the safety of domestic violence victims and discuss a plan for their safety. Further, the American College of Emergency Physicians state that it is imperative that emergency personnel assess the patients for domestic violence and routinely inquire as to "what happened, when, where and whom."

Where this becomes a bit more problematic is proving the attacker's identity. However, there is authority upholding the introduction of medical records and testimony from treating physicians regarding the victim's identification of the attacker in domestic violence cases. The rationale is that such information is necessary for diagnosis or treatment insofar that it bears on advice to seek counseling or therapy. (see e.g., United States v. Peneaux, 432 F.3d 882 (8th Cir. 2005)).

C. Prior Inconsistent Statements

Admitting prior inconsistent statements is a commonly used tool in domestic violence cases because victims who do testify often testify in a manner that is different from what they said on the day of the incident and soon thereafter. The definition of hearsay in NRS 51.035 specifies that prior inconsistent statements are not hearsay. Further, NRS 50.135(2) allows admission of "[e]xtrinsic evidence of a prior contradictory statement by a witness" if "[t]he statement fulfills all the conditions required by subsection 3 of NRS 51.035; or ... [t]he witness is afforded an opportunity to explain or deny the statement and the opposite party is afforded an opportunity to interrogate him thereon." The Nevada Supreme Court has held that a failure to remember is inconsistent with a prior statement in which the witness did remember. Crowley v. State, 120 Nev. 30, 35, 83 P.3d 282, 286 (2004).

D. Expert Testimony and Other Jury Trial Considerations

Prosecutors may consider using experts such as medical professionals, psychologists, law enforcement, social workers, and victim advocates.

Medical experts may testify to injuries and how such injuries could be caused. Importantly, medical experts may also be able to provide testimony regarding non-visible internal injuries, especially those sustained during strangulation.

Expert testimony on domestic violence generally is admissible under NRS 48.061, which allows the testimony of experts on domestic violence regarding the effects of domestic physical, emotional, or mental abuse “on the beliefs, behavior and perception of the alleged victim of the domestic violence” offered for any relevant purpose. Such relevant purposes include the defense using evidence of battered woman syndrome to show state of mind and self-defense. Expert testimony on domestic violence is also commonly used by the prosecution to explain victim behavior. Such testimony might cover the cycle of domestic abuse; power and control dynamics in abusive relationships; and the effects of domestic violence, including the effect of physical, emotional, or mental abuse on the beliefs, behavior, and perceptions of the victim of the domestic violence. Understanding these effects on victims may be helpful to a jury in understanding a victim’s behavior after the arrest, before trial, or in court. It might help explain why a victim might stay in a relationship after abuse, recant, change their stories, withhold information, minimize, and be generally reluctant to testify against a defendant. Expert testimony may be beneficial to proving the prosecution’s case beyond a reasonable doubt at a jury trial, since the expert witness may better explain the cycle of violence and its effects to the jury.

E. The Use of Material Witness Warrants

“Evidence-based prosecution,” or proceeding without the victim as a witness, is not always possible, despite the thoughtful use of all other admissible evidence. NRS 50.205 and NRS 178.494 authorize the arrest and detention of material witnesses when necessary to secure their testimony at trial. The practice of using material witness warrants for victims of domestic violence can alienate victims, deprive them of any sense of control, and re-victimize them. These warrants should be used sparingly. Prosecutors should make every effort to procure cooperation without the use of a warrant. Early connection to services and victim advocacy can sometimes prevent refusal to cooperate.

Prosecutors’ duties and responsibilities to preserve public safety, protect victims and their families, and ensure offender accountability must be balanced against the concerns that weigh against using material witness warrants for victims of domestic violence. Although generally disfavored, a material witness warrant may be necessary in some cases. In deciding whether to seek a material witness warrant on a case-by-case basis, prosecutors should consider the following non-exhaustive list of factors:

- a. The severity of the involved charges
- b. The use of a weapon in the incident
- c. The severity of the victim’s injury
- d. The importance of the witness’s testimony to the prosecution of the case
- e. Whether a reasonable case disposition can be achieved without compelling the witness’s attendance in court
- f. The age and health of the victim
- g. The defendant’s criminal history and history of violence
- h. Any pattern of abuse by the defendant
- i. The likelihood of continued abuse or danger to the victim or others
- j. The presence of children during the incident, and whether children were subjected to violence or threats
- k. The risk to public safety if the case cannot proceed due to the absence of the witness
- l. The witness’s expressed reason for not appearing
- m. Any cause to believe there may have been witness or evidence tampering
- n. Risk or inconvenience to other witnesses
- o. The expense of compelling the witness’s presence at trial
- p. Other input from a Victim Advocate regarding the case

If the decision is made to seek a material witness warrant, prosecutors should consider the availability of appropriate childcare options for the victim's children. They should be mindful that a victim of domestic violence arrested on a material witness warrant must be brought before a judge or magistrate as soon as possible. This may require additional planning for timing for arrest in jurisdictions in which hearings do not occur on weekends or holidays. Victim advocates should be available to meet with a victim who is arrested on a warrant. Prosecutors should take actions to limit the amount of time a victim spends in custody on a material witness warrant. Prosecutors should ensure any material witness warrant is promptly quashed once there is no longer a need for the warrant.

XI. DISPOSITIONS

A. Negotiated Pleas

Before negotiating any plea or resolution, the prosecutor should consider the following factors:

- Realistic assessment of the possibility of successful prosecution without a plea
- Seriousness of the offense
- Prior criminal history of the defendant
- Victim's input
- Any history of violence in the relationship and the probability of recurrence
- Any other relevant circumstances

B. No-Contest Pleas

Before negotiating a plea of *nolo contendere* for a misdemeanor crime of domestic violence, the prosecutor should seek the input of the victim about whether they have sought, or are seeking, a domestic violence protection order against the defendant. This is because under NRS 48.125 (2), *nolo contendere*, or "no-contest" pleas are "not admissible in a civil or criminal proceeding involving the person who made the plea or offer." A criminal plea can preclude issues in civil cases arising out of the same act or occurrence automatically, meaning that a criminal resolution can render certain issues or facts proven for the purposes of a civil case. Thus, the prosecutor should always check if the victim plans to obtain a protection order post-plea, as this may force them into testifying at a subsequent protection order hearing when a guilty plea could have resulted in the automatic issuance of the order.

C. Sentencing

The prosecutor's sentencing recommendations should be commensurate with sentences for other violent crimes and any mandatory minimum penalties.

As set forth in Section VIII Victims' Rights, the victim has a right to be heard at sentencing. This is generally referred to as the victim's impact statement. The sentencing hearing is also an opportunity for the victim to testify about past violent incidents that were not admissible at trial but are admissible at the sentencing stage. Offering additional witnesses, including experts, should also be considered. The prosecutor should stress the pattern of abusive behavior, along with any violations of previous court orders, so the court can evaluate future risk to the victim and sentence accordingly. Be prepared, as the victim may try to minimize the violence, even in the most serious cases.

1. Suspended Sentences

Most negotiations and sentences will likely include a suspended sentence. The defendant's behavior while on a suspended sentence should be carefully monitored and conditioned upon

strict compliance with conditions carefully tailored to protect the victim and community. Processes should be in place to allow victims to contact the prosecutor's office in the event of a no-contact order violation. If a defendant is not complying with the terms of the sentence, the prosecution should calendar a revocation hearing as soon as possible.

2. Counseling and Treatment Programs

NRS 200.485 mandates counseling for a battery that constitutes domestic violence pursuant to NRS 33.018. In addition, prosecutors should recommend the following programs for the defendant when appropriate:

- Substance abuse counseling.
- Parenting classes; and/or
- Mental health evaluations.

Studies have shown that couples therapy is *not* appropriate and is often dangerous to the victim. In a couple's environment, the defendant's control over the victim is reinforced and the victim is intimidated from speaking candidly and honestly.

3. Diversion and Treatment Courts

Diversion is generally defined as an action that suspends criminal justice case processing of a domestic violence charge, with one or more of the following results:

- (1) Charges are not filed,
- (2) Charges are dismissed; and/or
- (3) Sealing of records.

Diversion, in other words, offers an alternative to a criminal conviction. The goal of diversion in domestic battery cases is to modify a defendant's behavior by providing treatment to address domestic violence, mental health conditions and/or substance use, while at the same time, providing eligible offenders the opportunity to have a domestic battery charge dismissed and/or sealed.

In Nevada, domestic battery diversion is limited by statute to certain treatment court programs, including veteran's court, alcohol and substance use treatment programs, and mental health court programs. See NRS 176A.280; NRS 176A.230, NRS 176A.250. Defendants must meet certain statutory requirements to be eligible for these diversion treatment court programs. See NRS 176A.230 (alcohol and substance use), 176A.250 (mental health), and 176A.280 (veteran's court).

Admission into each of these treatment courts is at the court's discretion. The prosecution should discuss this possibility with the victim prior to resolving the case with this option. Although discretionary for domestic violence cases, a successful completion of the treatment program entitles the defendant to a conditional dismissal of the case. This means that the charge is not considered a conviction for any private or public purpose but is considered a conviction for a second or subsequent conviction. The charge is also considered a conviction for enhancement purposes. NRS 176A.240, NRS 176A.260, NRS 176A.290. If the victim opposes the conditional dismissal associated with successful completion of the treatment court program, it is best to have victim object to admission at the time of sentencing

5. Restitution

If allowable by law, the prosecutor should seek restitution for expenses resulting from the crime. The prosecutor should request payment be made prior to payment of fines or court costs, in accordance with the law, and that payment be made according to a specific, short timetable.

NRS 176A.430 requires that a court *shall* order restitution as a condition of probation or suspension of sentence, or the court is required to set forth the circumstances upon which it finds restitution impracticable. NRS 176.033 requires a sentencing court, *in any case where imprisonment is required or permitted by statute*, to set an amount of restitution for each victim in cases where restitution is appropriate. There is no requirement that any portion of the sentence be suspended to order restitution in such cases.

NRS 5.055 (municipal court) and NRS 4.373 (justice court) provide for suspended sentences, and restitution as a condition thereof in the courts of limited jurisdiction.

NRS 213.126 requires that, unless complete restitution was made during a parolee's incarceration, the board *shall* impose such a condition of parole.

D. Parole Hearings

If the defendant commits a felony and he is ultimately convicted and sentenced to prison, eventually he will come up for parole while serving his sentence. The State Board of Parole Commissioners, upon receiving an application from the defendant, will hold a periodic meeting to consider the application. The victim is entitled to submit documents to the board and may testify before the board at the meeting held to consider the application. No application for parole may be considered until the board has notified the victim of their rights and they have had an opportunity to exercise those rights if requested in writing and provides a current address. NRS 213.130.

The prosecutor may request to be heard at a meeting to consider the application of the defendant. The prosecutor may also submit his or her name to the parole board and obtain the name and address of the victim for this purpose at the close of the case and notify the victim of any parole consideration meetings regarding the defendant when the prosecutor is notified.

E. Dismissals

Dismissal is a last resort. In most cases, the prudent prosecutor will delay dismissal until the time of trial. This gives the prosecution one last chance to persuade a reluctant victim to go forward or to otherwise develop sufficient evidence. In addition, it ensures that the defendant appears in court so that the seriousness of the domestic violence charge may be impressed upon the defendant.

Note: Dismissal of felony charges at the time of trial acts as a dismissal with prejudice. NRS 178.554 and NRS 178.562(1). Unfortunately, it also may confirm in the defendant's mind his power over the victim or that the victim does not view the offense as being serious. Thus, it should be made clear on the record that ***the prosecutor, not the victim***, has made the decision to dismiss.

F. Data Collection and Evaluation

The prosecutor's office should collect and evaluate data concerning domestic violence prosecutions to facilitate system improvement. The prosecutor's office should also engage local victim advocates in a continuing process of evaluation of its policies, procedures, and performance regarding domestic violence prosecution.

APPENDIX A - Determining the “Primary Physical Aggressor” (Dominant Aggressor)

In situations where more than one domestic violence incident may have occurred, the "primary physical aggressor" is the person determined to be the dominant aggressor, not necessarily the first person to use force or violence. In making this determination, and in conformity with NRS 171.137(2), peace officers shall consider:

1. Prior domestic violence involving either person;
2. The relative severity of the injuries inflicted upon the persons involved;
3. The potential for future injury;
4. Whether one of the alleged batteries was committed in self-defense; and
5. Any other factor that may help the peace officer decide which person was the primary physical aggressor.

While not codified by statute, the following is a non-exhaustive list of “any other factor” that may help the peace officer, or the prosecutor decide who was the primary physical (dominant) aggressor:

1. The comparative extent of the injuries between the persons involved;
2. Any serious threats creating a fear of physical injury to the person;
3. The comparative sizes and/or vulnerabilities of the parties involved;
4. The demeanor of the parties involved, including their emotional state and any excited utterances;
5. Any weapons used or threatened for use by either party;
6. Any claims of self-defense, defense of others, defense of property, coercion or trespass;
7. The presence of defensive wounds, which may include scratches to the suspects, face, arms and hands or to the victim's neck in cases involving strangulation;
8. Any witness statements;
9. Whether there was an excessive response to the other parties' actions and/or time delay between domestic violence incidents;
10. Whether there was a time delay between domestic violence incidents; or
11. The environment in which the violence occurred.

APPENDIX B - Lethality Assessment

Conduct a lethality assessment by considering, without limitation, the following factors in the context of the relationship as a whole:

1. Is there a history of domestic violence?
2. Does the perpetrator have obsessive or possessive thoughts?
3. Has the perpetrator threatened to kill the victim or the victim's children or pets?
4. Does the victim think the perpetrator might try to kill them?
5. Has the perpetrator ever used a weapon against the victim or threatened them with a weapon?
6. Does a perpetrator have a gun or can they easily get one?
7. Has the perpetrator ever tried to strangle the victim?
8. Has the perpetrator ever tried to kill themselves?
9. Does the perpetrator feel betrayed by the victim?
10. Is the victim attempting to separate from the perpetrator?
11. Have there been prior calls to the police?
12. Is there increasing drug or alcohol use by the perpetrator?
13. What is the prior criminal history of the perpetrator?
14. Is the perpetrator depressed?
15. Has the perpetrator abused animals/pets?
16. Has the perpetrator demonstrated rage or hostile behavior toward police or others?
17. Has there been an increase in the frequency or severity of the violence (whether documented or not)?
18. Has the perpetrator been violent toward children?
19. Is there a history of stalking behavior?
20. Does the perpetrator control most of the victim's daily behavior?
21. Does the perpetrator follow or spy on you or leave threatening messages?

Attachment Six (6)

Committee on Domestic Violence
November 7, 2024

Contents:
Data Subcommittee Action Plan

Data Sub-Committee Action Plan

Goal: Main goal is to have a statewide consistent policy, consistent plan, and consistent source of data.

<u>Agency</u>	<u>Data to Collect</u>	<u>Where to House the Data</u>	<u>Volunteer Responsible for Task</u>	<u>Notes</u>
Courts	1. TPO Applications and Denials Family Court 2. How many DV's with a TPO are getting joint or full custody? 3. Are judges seeing the DALE or other LAP Tool? Criminal Court (All of this around one abuser)	NIBRS - Nope	3. Nicole - Jamie Gradick AOC	
District Attorney's	1. DV Homicides – Need to keep designation of DV for the entirety of the case so it can be reported as a DV related homicide. 2. # of DV related cases submitted by LE vs. # of cases charged 3. The number of defendants charged with such a crime and, of those defendants, the number: <ol style="list-style-type: none"> a. Who plead guilty or no contest to the charge; b. Whose charges were dismissed; and c. Who stood trial on the charges 5. The outcomes of trials in which defendants are charged with battery which constitutes domestic violence and is committed by strangulation. 6. Alleged victims of domestic violence who receive a forensic strangulation examination (Is this a question for healthcare, SP's, Forensic Nurses??? Not sure if DA's would have this number in light of the following question or LE's or if there are some who get the exam and don't report and how to get the most accurate answer) 7. Defendants accused of battery which constitutes domestic violence and is committed by strangulation by an alleged victim who received a forensic strangulation examination and whose charges were dismissed or who stood trial and were found not guilty of the crime	NIBRS - Nope	1. Reporting clearinghouse location 2. Nicole – DA's Association/ Mark Jackson – We need to identify all the NRS we want to collect data on and get back to him	

<p>Northern Nevada Regional Intelligence Center.</p> <p>Is there a Southern one?</p>	<p>What do they do? What data do they have??</p> <p>https://dem.nv.gov/homeland_security/Nevada_Fusion_Centers/</p>		<p>Changing to new system 9/9/25</p> <p>Meeting to discuss data points?? Jamie & Ryan</p>	<p>Develop Data Points, have Meeting</p>
<p>Nevada Dept. of Sentencing & Policy</p>	<p>https://sentencing.nv.gov/</p> <p>1. What do they do? 2. What data do they have?</p>		<p>Nicole – Director Georgia Powers</p>	
<p>NDOC</p>	<p>1. Waiting on a BDR for them to have staff to provide Interpersonal Violence Prevention Program. NDOC is asking for a Program Manager & staff for it in the North and South, 4 people. Has to have positions before they can access the grants to facilitate the programs. BDR for 2025. Once the program is running we will connect so they make sure they are asking the questions we want to track.</p> <p>2. The Inspector General investigates all events that take place in the facilities. Jen Rey is reaching out to them regarding adding additional data points for acts of violence prior to the event so they can be connected.</p>	<p>UNR??</p>	<p>Nicole – Yes Will have data by next meeting to discuss for any other data points</p>	<p>They said No.</p>
<p>Child Welfare</p>	<p>1. # of DV identified cases? 2. How many were reunited? 3. How many resulted in removal?</p>		<p>Nicole – DCFS/HAS/CPS</p>	
<p>Dept. of ED</p>	<p>1. Data on healthy relationship curriculum - Safe Voice & SHARE are both supposed to be in all districts. - What data are they tracking – Invite presenter to next meeting</p> <p>2. Data on SA's & Dating Violence & handle with care kids</p>		<p>Nicole – DOE (Check DOE website First)</p> <p>Pam P.- WC SHARE</p>	
<p>DPBH</p>	<p>1. What Stats do they have? a. Who's choosing treatment v incarceration? b. If Incarcerated are they completing treatment also? c. How many people are getting treatment? d. completion rates, if not, why not? c. Need Standardization of data points for all providers?</p>		<p>Nicole – Emailed 6/27 Leticia Metherell Meeting with Leticia</p>	
<p>DPS</p>	<p>NIBRS Public Facing Website</p> <p>1. Adding a link to the DV Homicide Report 2. Adding a contact email for support in digging in deeper to their horrible to navigate reporting system</p>		<p>Raymond Mansi – Is supposed to be adding a homicide link and a email for support</p>	

P&P	1. What do they have on DV & SA		Ask Tamrah Jackson on 6/30	They downgraded systems which does not allow the data tracking we want.
SafeNest	- From a quantitative analysis perspective, SafeNest has got enough data to be viable for Clark which could be translated to Washoe with a 95% confidence interval. 1. What data?		Liz O.	

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