

DOMESTIC VIOLENCE ADVISORY COMMITTEE MEETING AGENDA

11 a.m., Monday, January 13, 2020

Governor's Conference Room * Wade Hampton Building * 1200 Senate St. * Columbia, SC 29202

Committee members in attendance: Duffie Stone, 14th Circuit Solicitor; Sara Barber, SCADVAASA; Keelin Ford, S.C. Department of Mental Health (representing Allison Farrell); Dennis Kelly, Greenwood County Sheriff; Terrence Green, Lexington County Police Chief; Gianna Williams, S.C. State Law Enforcement Division (representing Paul Grant); Brandi Bradley, S.C. Department of Social Services (representing Kelly Cordell); Jay Johnson, Sixth Circuit Solicitor's Office; Heather Weiss, S.C. Attorney General's Office; Devon Hughes, S.C. Criminal Justice Academy; Mahri Irvine, S.C. Department of Health and Environmental Services.

Also in attendance: Jeff Kidd, 14th Circuit Solicitor's Office; Karla Hawkins, S.C. Department of Education; Andrea Sanch-Baker, S.C. Commission on Prosecution Coordination; Lisa Catalanotto, S.C. Commission on Prosecution Coordination; Catie Maffett, Greenwood County Victim Services; Tara Martin, S.C. Attorney General's Office Victim Services; Dr. Bobby Brame, University of South Carolina; Christi Metcalfe, University of South Carolina; Ashley Manix, University of South Carolina; Monique Garvin, S.C. Attorney General's Office; Scott Beard, S.C. Attorney General's Office; Burke Fitzpatrick, S.C. Attorney General's Office; Tressa Dixon, Columbia Police Department, S.C. Law Enforcement Victim Advocates;

- **CALL TO ORDER**, 11:05 a.m., Duffie Stone, committee chair, Fourteenth Circuit Solicitor
- **RECOGNITION OF QUORUM**
- **APPROVAL OF MEETING MINUTES FROM OCT. 7, 2019, MEETING**, Duffie Stone, committee chair, Fourteenth Circuit Solicitor; Heather Weiss makes motion to accept minutes as submitted; Sara Barber seconds motion; motion passes by unanimous consent on voice vote.
- **DISCUSSION OF RECOMMENDATIONS TO BE INCLUDED IN COMMITTEE'S ANNUAL REPORT TO GENERAL ASSEMBLY AND GOV. MCMASTER.**

IT and reporting considerations

Solicitor Stone, reiterating a point made often by Dr. Brame throughout the committee's work, noted the best way to identify patterns in domestic violence incidence comes from domestic homicides because these incidents almost never go unreported, are typically investigated thoroughly and can be the culmination of a long string of domestic-related events.

Dr. Brame reiterated a plan, established in 2018, for three research projects – two of which the committee hoped to find immediate funding for and one that would be useful but perhaps cost-prohibitive at this time. A homicide survey would be focused on identifying cases statewide, possibly going back several decades, that entail intimate-partner homicides or that are related to domestic-violence incidents. Researchers would then record important data points and parameters – for example, involvement of weapons, relationship between victim(s) and perpetrator(s), criminal histories of those involved, specific case histories, autopsy findings, etc. This study would help establish a baseline measurement of the incidence of domestic violence and track changes to its prevalence over time. It would also aid in identifying commonalities in fatal incidents and inform future policy recommendations. A second, more narrowly focused pipeline study would examine

cases related to domestic violence within a selected judicial circuit to identify the decision-points within case processing and whether they are free of bias, evaluate the effect on recidivism of pre-trial intervention (PTI) programs related to domestic violence incidents, and measure the nature of interventions that people experience and the duration of treatment while participating in PTI. A third potential study, which would probably cost about \$3.5 million, would examine victimology and account for the 50% (at least) of domestic violence cases that go unreported. There are national studies on this subject, but it is not currently possible to drill down to the state level for an analysis because there is not yet enough useable data accumulated. Compiling this information is the costly part.

Brame said a major encumbrance to these studies – including the two that are more modest in cost – is that records statewide are inconsistent and often incomplete – and all the more so the further back in time researchers venture.

Barber asked if such a study would be redundant given that the S.C. Department of Health and Environmental Control is working with the Intimate Partner module of the National Violent Death Review to produce detailed reports. Brame said the difference is that the study he envisions would look back in time, possibly decades, providing a baseline that predates 2015 changes to South Carolina’s domestic-violence laws. Irvine also noted that DHEC is working off a database of submitted information; in the study Brame describes, researchers would be more proactive in gathering information and matching it to flesh out cases. Metcalfe noted that the DHEC data also is often lacking court-related information, particularly when someone involved in a domestic-related incident has participated in a diversionary program.

Stone recognized the analytical value of isolating homicide cases but noted other crimes that are not flagged as “domestic” cases have domestic-violence elements, nonetheless – for instance, criminal sexual conduct, stalking, harassment, even burglaries and vandalism. With that in mind, it might make sense to build integration into statewide systems that allows for deeper and broader exchange of information between various agencies.

Stone also noted that the Domestic Violence Advisory Committee recommendations contained in the 2019 annual report – particularly those that entailed allocation of money from the General Assembly – weren’t effectively advanced after the press conference to announce the report’s release.

Barber recommended a sit-down with key legislators, including House Ways and Means Chairman Murrell Smith Jr., to acquaint them with the state’s needs regarding domestic violence prevention and to reiterate past requests that have gone unfulfilled.

Brame said that in the lead-up to the 2019 report, his research team at the University of South Carolina crafted research and grant proposals with the understanding that \$500,000 was a back-of-the-envelope limit on any request made to the General Assembly likely to be regarded as reasonable. He wondered if a similar cap or restraint was in place this year. He also noted that a research-assistance center at USC, with which his researchers would partner, had been disbanded in the past year, meaning he would need to find a new partner (and likely additional money) to produce one of the three research components the committee

Stone noted that the committee might need a new approach to procure state funding for research. He recalled the simultaneous chain of events that came out of the work of Gov. Nikki Haley’s Domestic Violence Task Force and a desire by the state’s solicitors to procure more state funding to add prosecutors. The request for additional funding was successful, he said, because the solicitors married their request to a Task Force recommendation that magistrate-level domestic-violence cases be prosecuted not by law enforcement

officers but by professional prosecutors, in General Sessions Court. By marrying interests, the General Assembly made good on a Task Force recommendation and solicitor's got additional manpower they needed.

Stone said a similar approach to the state's research needs regarding domestic violence might be fruitful. From the days of the Task Force, through the S.C. Domestic Violence Advisory Committee's work, one theme has been constant – not only is actionable data difficult to collect and analyze, in many cases, it doesn't exist or cannot be effectively integrated across agencies or their IT systems. Noting that the state's solicitors and the S.C. Commission on Prosecution Coordination have separately decided to seek state funding for IT and case-management upgrades, he proposed a recommendation that the committee endorse the CPC request, with the stipulation that any system adopted by a solicitor be able to integrate with systems across circuits, support input of the data points necessary to carry off Brame's research projects and to make information in the system available to USC researchers, after necessary privacy concerns are met. Stone said that, if such an integration of systems and database of information to be created, it would make the most sense for it to reside primarily with prosecutors for several reasons. Among those reasons, of all the stakeholders, prosecutors are most likely to know facts of a case from beginning to end, be acquainted with much of the victimology and know the judicial outcome. Prosecutors also typically have authorization to view all information associated with a case, whereas other parties might not be legally allowed to know a victim's name or address, or the status of a defendant who has entered a diversionary program or applied for an expungement. This would make for more thorough and accurate database since a prosecutor could help ensure information from disparate sources match up before identifiers are stripped out and passed to researchers.

Brame reiterated the domestic-violence-related research projects he's interested in. One is a pipeline study that would examine how cases are prosecuted – where are the decision points, where might unconscious bias creep in. He also noted that according to Tara Martin's doctoral dissertation, about 50% of domestic-violence cases go unreported. (Martin added that this figure was arrived at not through her own research but through examining the research of others.) USC's studies would try to capture this, as well, primarily through phone surveys. The price tag would be in the range of \$3.5 million. This also is the work the now-shuttered USC research center would have assisted with, so research support would have to come from another source.

Stone, said the Commission on Prosecution Coordination is not requesting money that would be spent with a single IT vendor; rather, solicitors would be able to contract for their own case-management systems, however, the Commission on Prosecution Coordination would only release funding for these projects once the solicitors have ensured their reporting systems will integrate with other systems.

Christie Metcalfe noted that Florida and Pennsylvania are among the states that have a much higher degree of information integration within the criminal justice system than South Carolina.

Stone asked if anyone had strong disagreement with the approach of marrying the committee's request for research funding to the solicitors' request for state funding for its IT needs. No one opposed.

Prevention education

Karla Hawkins of the Department of Education reiterated a point made in previous meetings – the state doesn't have ability to mandate specific curriculum for schools or districts, at least not without the approval of the General Assembly. Right now, elementary and middle school programs that touch upon domestic violence are different from those in high schools, where education is folded in and expressed as part of health-education standards.

Mahri Irvine of DHEC said its programs for sexual violence prevention and domestic violence education typically go hand in hand, but funding for these programs is miniscule – not enough to pay one FTE position.

Barber said federal investment is \$551,000 for prevention services via Centers for Disease Control grants, for which DHEC serves as a pass-through. The total amount of CDC/RPE funds that DHEC passes through to the 15 rape-crisis centers and SCCADVASA is approximately \$551,000. DHEC keeps approximately \$29,000 for grant administration. A state match of these funds would be beneficial in demonstrating the state's commitment to the prevention of domestic violence, she said.

Irvine noted that Barber's organization, SCCADVASA, and rape-crisis centers receive state funding. This funding can be used for a variety of expenses. Most of the rape crisis centers use this state funding to cover administrative expenses and costs that are not allowed by their restrictive federal funding sources., DHEC also administers the State funds (approximately \$1.1 million) to all the centers and SCCADVASA. DHEC gets no money from the state to administer these funds. "If possible, it would be really helpful if the committee's recommendation for new State funds could include a small amount of money (perhaps \$20,000) for DHEC, to help cover the cost of administrative expenses."

Stone asked what a state-approved mandate or a request for state funding of prevention education programs would look like.

Barber suggested something along the lines of recommending that the state provided funding for education that include accountability mechanisms for districts. The programs would be designed to ensure every child in South Carolina "has the opportunity" to be exposed to prevention education. She said such wording is, intentionally, similar to the wording for sex education programs. Her preference would be to make it mandatory for all students, but political reality likely means a mandate that allows parents to opt their children out of the education program, even if that means many of the children who need it most will not be given permission to receive it.

Irvine reminded the group that Title IX applies to K-12 public schools, not just higher-education institutions, as the public might widely assume. An argument could be made that schools are obligated to include sexual and domestic violence education if they have access to federal money.

Several committee members agreed that, where healthy relationship education is concerned, the most accurate description is that districts are required to teach it, but there is no uniform approach on how it is taught. Barber noted the result is widely disparate programs – in some places, it's almost non-existent, while in other schools, it is robust, with as much as six weeks of related instruction.

A more standardized domestic violence policy for law enforcement agencies

Chief Green said that a uniform policy for law-enforcement response to domestic-violence calls could help ensure victims are properly informed about services available to them and that thorough documentation of such incidents take place. This can be a particularly difficult challenge for small departments – the two- and three-officer agencies asked to respond quickly to calls spread over a wide geographic area. He said new graduates of the S.C. Criminal Justice Academy receive training, but they might then go to work at an agency that doesn't have a policy in place and where they might work alongside older officers who haven't been kept current. The Academy, he notes, doesn't set the policies. That would need to be encouraged through various law-enforcement organizations, specifically, the S.C. Sheriffs Association, the S.C. Police Chiefs Association and the S.C. Law Enforcement Officers Association.

Sheriff Kelly said a lot of smaller agencies look to larger departments and try to adopt their policies in whole or in part.

Green said the Municipal Association, the Sheriffs Association and other organizations typically have policies they can recommend to agencies seeking to adopt one, and these could be adapted to each department's circumstances. Agencies have to have a policy to gain accreditation, but not all agencies are accredited. Also, accreditation doesn't necessarily require a specific policy, only that the department have one. While it would be preferable to have standardized or nearly standardized policies for all agencies, there's value in the public to having any policy at all. Specifically, agencies that don't follow their own policies are exposed to legal liability, therefore, there is typically emphasis on adhering to the policies.

Scott Beard asked if policies should include a requirement to complete a lethality assessment. He said in an environment in which the state is trying to combat domestic homicides, it makes sense to promote something that is evidence-based and that appears to be effective. Based on answers a victim gives in the assessment, an officer could put the victim on the phone with a shelter immediately, the premise being that even if the victim doesn't immediately take advantage of the service, their knowledge that it exists has the potential to reduce the future likelihood of a fatal incident.

Barber agreed but noted smaller agencies might have difficulty implementing such a policy because the a particular force might not have the capacity to fill out a 20-question survey of people who don't want to cooperate in the first place, particularly if the officers have defused the situation initially and are called to respond to an incident elsewhere.

Weiss reminded Jeff Kidd that earlier this year she provided a packet of domestic-violence-call information that is being used in Lancaster. The packet, which includes but is not limited to the lethality assessment, seems to be making prosecution better and easier, and it covers many areas. It also has been edited down and improved over time, so that it is less onerous for both victims and law enforcement to complete. Makes prosecution better/easier, Weiss said. Weiss said she will resend the packet to Kidd so that it can be included in the appendix of the upcoming annual report.

Barber said that perhaps the committee's recommendation aims to seek a basic level of consistency in law enforcement policies because without that basic level, you don't get accountability.

Weiss said accountability is a key. Officers in some agencies still seem not to be identifying primary aggressors or explaining why identifying the primary aggressor wasn't possible during a service call, even though they're required to do so.

Tressa Dixon spoke to the role of law enforcement victim advocates, some of whom are sworn officers, some of whom are not. In many departments, they are crisis responders, on the spot whenever notified of a domestic incident. If they're on the scene, they can do the lethality reports that would otherwise fall to the officers. They also are a great resource. They work closely with battered-women shelters, such as Sister Care. Once officers have secured the scene and made sure the environment is safe, advocates can step in for the follow-up. Again, however, smaller agencies might have different arrangements, often using LEVAs in dual roles – they're officers who go through the victim advocate training.

Stone asked the group to propose a recommendation for the report. What emerged was a call for a "Uniform policy for handling domestic-violence calls arrived at by the Sheriffs, Police Chiefs and Law Enforcement

Officers associations that includes a lethality assessment at some level and that addresses the need for victim advocacy, particularly among understaffed agencies.”

Dating-violence and related bills

Barber proposed repeating a recommendation made in last year’s report encouraging the General Assembly to pass a bill that gives the protections available to co-habiting partners under current domestic-violence law to those in dating relationships where there is no cohabitation. Bills that target teen dating violence have been introduced in the legislature, but Barber noted that there are concerns around the potential for extreme criminalization of teenagers’ behavior in comparison with the laws governing similar adult behavior.

In other legislative matters, Weiss noted that currently in the legislative pipeline are bills S193 and H3468 that address confidentiality programs that allow domestic violence victims to use a designated mailing address established by a victims assistance organization so that they can conceal their place of residence after leaving an abusive partner. She said she didn’t have specifics in front of her but that the bills lay out a system that would allow victims to keep their whereabouts secret from their abusers while still letting law enforcement and prosecutors ascertain their whereabouts if need be.

Domestic violence education for magistrates

Johnson asked if the group believed that keeping magistrates are adequately educated about domestic violence and domestic violence law, particularly as it might pertain to protective orders, bond terms, etc.

Stone thought it might be possible to convince Court Administration to offer CLE hours to magistrates. Barber said she thinks this already exists and suggests that the committee needs to look more deeply into the subject before making any sort of recommendation.

Strangulation

Irvine noted that South Carolina is one of the last states in the nation to update its laws regarding strangulation and to recognize its connection to the lethality of domestic violence.

A bill currently in the S.C. Senate, S541, would make an attempt to strangle a felony.

Barber said she is aware of the trend nationwide to adopt such laws, however, she said numerous inquiries into the efficacy of such laws has not been forthcoming. She said it might be premature to make a recommendation about how the law treats strangulation. It would be better to know what has happened in states where changes already have been made.

Johnson noted that 2015 changes to S.C. Domestic Violence law included an enhancement to upcharge third-degree domestic violence to second-degree domestic violence whenever an attempt at strangulation was involved. He asked if we knew the change’s effect and whether those DV 2nds were frequently pled back down to DV 3rds by the time they came to disposition.

Stone noted a potential unintended consequence of laws meant to enhance punishments for very specific types of behavior. Specifically, this often requires prosecutors to prove an additional element of the crime, thereby making it more difficult to convict the guilty. This could be an area in which the committee needs to do a deeper dive in 2020, as it did in 2019 with Fatality Review Committees.

Barber noted that the committee has limited political capital, and this it makes sense to push forward only on measures we believe will have impact for survivors.

Next year's points of emphasis

Stone asked if the group wanted to continue with fatality review presentations in its 2020 meetings.

Johnson said he believes they are useful to both the committee and the groups that present.

Barber agreed, adding the act of being invited to present creates accountability for the Fatality Review Committees.

Johnson wondered if there are circuits where the Fatality Review Committees are inactive and, if so, if there is a way to prompt them to get to work.

Stone said he thinks that can be accomplished by going down the list of groups and extending invitations. If a group is invited to present but hasn't analyzed a case, they might be prompted to begin.

Lisa Catalanotto said the Commission on Prosecution Coordination is in the process of updating its roster of FRC contacts, which hasn't been done in a couple of years. One point of the exercise will be seeing how much turnover there has been in the people participating on these committees and whether committees need to be brought back in for training.

The committee decided that in 2020:

- The Advisory Committee will research effects of strangulation laws throughout the nation, with an eye toward a possible recommendation in its 2021 report.
- The Advisory Committee will assess training for judges, including, but not limited to magistrates.
- The Advisory Committee will continue to invite presentations from Fatality Review Committees to glean possible recommendations and to help ensure the committees themselves continue to function.

Adoption of recommendations for 2020 annual report.

The committee endorses passage of legislation by the General Assembly that would allow victims assistance organizations to create designated addresses for domestic-violence victims, whereby they can continue to receive mail without revealing their new place of residence from abusive partners. The recommendation was approved by unanimous consent in a voice vote.

The committee recommends that the General Assembly pass a bill and that the governor sign into law legislation that extends to dating or intimate partners who are not cohabitating the same protections available to cohabitating partners under current domestic-violence law. The recommendation was approved by unanimous consent in a voice vote.

The committee recommends that the Sheriffs, Police Chiefs and Law Enforcement Officers associations, as well as accreditation organizations, work together to create a uniform policy governing law enforcement agencies' response to domestic-violence calls. Further, such a policy should consider lethality assessments and support under-resourced agencies, and provide for training in the implementation of the policy. The recommendation was approved by unanimous consent in a voice vote.

Potential partners and funding sources (public and private) should be identified to expand primary prevention education on domestic violence in schools and other community arenas. The committee recommends that the state budget contain a line item of an equal amount to the federal investment in prevention through the Rape Prevention Education funds administered by DHEC, with an allowance for reasonable DHEC administrative costs. The committee also recommends that the S.C. Department of Education be given the authority to create accountability mechanisms that evaluate school district compliance with requirements already in law regarding the provision of domestic violence and health relationship education. After funding is identified, a competitive RFP process should be established that will include evaluation of programs. The recommendation was approved by unanimous consent in a voice vote.

The committee recommends the establishment of IT infrastructure and funding to the S.C. Commission on Prosecution Coordination and to the state's 16 solicitor's offices for integrated case-management systems that will allow collection of information necessary for the University of South Carolina to conduct a pipeline study and homicide survey of incidents related to domestic-violence. Further, the committee recommends making this information readily available to the USC research team and providing \$500,000 to them to conduct their research. The recommendation was approved by unanimous consent in a voice vote.

- **ADJOURNMENT, 1:07 p.m.**