

SOUTH CAROLINA DOMESTIC VIOLENCE TASK FORCE
CRIMINAL JUSTICE DIVISION COMMITTEE MEETING

February 19, 2015

1:30 – 3:30 p.m.

SOUTH CAROLINA SHERIFFS' ASSOCIATION

Jerry Adger	Paul Grant	Leroy Smith
Sara Barber	Elizabeth Gray	Bryan Stirling
Ginny Barr	Meghan Gresham	Duffy Stone
Brian Bennett	Kristi Harrington	Kathleen Streett
Charles Bradberry	Dylan Hightower	Jackie Swindler
Jarrold Bruder	Laura Hudson	Angela Taylor
Felicia Dauway	Debbie Long	Paul Thurmond
Molly Flynn	Robert Mitchell	Bob Tuomey
Melissa Frank	Goff Owens	Dan Walker
Nick Gallam	Gary Reinhart	Craig Wheatley
Michael George	Nikki Rodgers	Heather Weiz
Stephanie Givens	David Ross	Catherine Wyse
Mark Gosnell	Rebecca Schimsa	

--- Meeting Called to Order 1:39 p.m. ---

I. Roles and perspectives of committee members

- Are there people that should be participating that aren't included in the committee? South Carolina Victim Advocate Association, Bar Association, Governor's office, Victim Assistance, Public Defenders, batterer's treatment program, director of domestic violence program.
- Subcommittees to be formed: Law Enforcement, chaired by Duffy Stone, to include solicitors, law enforcement, prosecutors; Data, chaired by Charles Bradbury; Technology; Victim Treatment and Best Practices.

II. Goals and objectives of the committee

- What are goals? The most important goal is to see statistical result from less people getting killed by domestic partners. Victim participation is one area in which prosecutors are frustrated. No participation, you can't get to what is an appropriate response. Anyone that's been involved in a CDV prosecution knows how difficult it is to get a conviction and often times the victim is not here.

III. Definition of data, information collection and analysis process

Charles Bradberry, Director of Research and Statistics, SCDC

- Grass roots answer and solutions of what we do, best practices, what works all over the state. Individuals working in areas with these issues.
- We need a baseline to begin with. It's always been difficult to get that information, from the lower courts especially. How many incidents; how many convictions. No grids to connect, especially when pled down.
- We deal a lot with annotative information and not specifics. What I'd like to get out is what are successful outcomes and what do they have that are consistent? Some people put in treatment programs as opposed to conviction. Conviction would also be considered successful but putting someone in a program would be as well. What do those crimes have in common? Whether it be a guilty plea or agreement to treatment, what's consistent for that? When we take those cases and put them in prison or treatment, what is the recidivism rates with people that conclude those programs two years down the line? We don't know what's successful. Are they working? Is there any success and what programs work best? Everyone has a part in it and would give us a baseline to start.

- Get data from other states. See what's working. Reach out to National Association to see what they are doing elsewhere.
- Conversation regarding what to measure. We may have to get a start date and an end date and get a six month study. We need a prospective study. Conviction doesn't end. What are judges doing once we get the conviction? Some judges may give a fine while others send to jail or batterer's treatment. Is treatment more successful than prison? The fine and the conviction enough? Let's look at statistics. Not stopping at the conviction. We need to see what judges are sentencing and follow up.
- Prosecution committee can gather evidence. Where we would need help is backing up to figure out recidivism rate – two year study to get rates. PPP could assist. Sentencing from summary court is available online. Whether they were reporting back to the court, does the court follow up, outcomes of batterers. Look at successes and see what works and have uniformity to it. Look at what works and what doesn't work.
- Treatment and evaluation, there is a lot of divergence in how the program is carried out. Reasonable strategy take an inventory of what's going on, what works best and move on from there as to what the next step is. Two years evaluation studies would lead to complex questions. A lot of data to be collected.
- Question asked is there a way to measure police reports, what happens up to the time the abuser is convicted. Call made on 1/27, police came out, blew her off, attacker came back and bit off her nose. We need to start holding police officers accountable, making sure they are doing what they need to be doing. CDV is not being taken seriously when making phone calls. The criminal justice academy teaches best practices. Victim dynamics; behavioral science, psychology, physical collection of evidence, copies of that along with best practices that we promote. To quantify what officers are using best practices, objectively interviewing parties. Once officers leave the academy or are not in training ability to influence them is gone. Question was asked about follow up training. Four hours of CDV training needed per year. Online recertification training is available. Difference in demographics. Some parts of the state will train four or five times a year on top of what the academy offers.
- Each CDV is different. If we can come up with a model that everyone can train from, make different things and more things required. Prosecutor will tell officers in training "This is what I need." What do we need before the court process starts? From a law enforcement perspective we are asking to prosecute first degree CDV cases, how do they have the same knowledge as a trained defense attorney? Can never get enough training. Some kind of reporting system to follow up? Find out what happened and how to correct. Some officers need remedial training. Come up with some type of system where there's a follow up call to be made.
- Over the next 90 days have somebody do a review of police reports and which ones led to arrest so we could follow from there. The problem with that is law enforcement strips off identifiers so we could not connect. The main problem is identifying the victim and the data on the incident data. The police reports that are submitted to SLED, local law enforcement strips off the identifiers. That's a major thing to see how hard that would be to not have it stripped out.
- A lot of cases that are attempted murders that are related but not part of that statute. How to track those? Robbery, domestic violence, sexual assault, stalking and even animals need to be included. Statistics committee may want to come up with a list that are precursors to domestic violence or go along with domestic violence. In a broader sense if there is a relationship between the offender and the victim. We don't know why we have high incidents of domestic violence in certain counties and low incidents in others. Data subcommittee will try to explain the differences. That's the first step is to try to explain it.
- Uniform CDV checklist needed? This case is going to trial, follow the checklist. Criminal Justice Academy has a checklist that is available. Talked about the idea of building an app that an officer can use at the scene. A flow chart. Are drugs present? Are there children present? The app may be able to help the officer on the scene.
- There is a way to articulate who changed the CDV to something else, have to hold people accountable for the change. Could see a pattern with certain officers.
- Children present, that's what they see growing up. Is there an enhancement if children are present? Yes. Law enforcement, if children are present, call social welfare system. That is being taught at the academy. At some point in time, not at the scene, have a follow up that people can go in and check the family out. A

welfare worker comes in to let the kids know that what they see isn't right. Put a code in "Children Present" and DSS gets a hit. Unlawful conduct towards a child, officers can charge that if there is a child present.

- How do we get to the children that witnessed it? They should be listed as victims in the report. We have two CDV investigators and they will make referral. Is there a measure that children were seen in a certain amount of time? Is there treatment available for children that witness CDV? Many agencies have specialized training for the children of the victims. Explore if there is some way to get into the school systems and do awareness campaign -- not more than once or twice a year -- to reinforce the idea that any kind of violence is wrong, if you see violence, this is what you should do. Another subcommittee is looking at that. Have to walk a fine line with the victims and the children because if you push too hard, they shut down and won't report. It's a question that's been trying to be answered for years now. Legislature was addressed this past fall, just plant the seed in the children's head. Why not have a class on healthy relationships? Reach out to home school association and invite people from other committees to come in and they can present what they are doing, we can present what we are doing. Maybe make it the Chairs of each committee.
- All 9-1-1 centers should be able to pull domestic calls. Once officer gets on scene they make the determination. It's pretty cut and dry for the call taker that this is domestic violence. Some statistical data may come from that. Lexington County has training for dispatchers every year on CDV. Every 9-1-1 throughout the state is different. Look at best practices for that and make recommendations.
- Department of Corrections keeps recidivism rates. Does PPP and people that go through the treatment program? Department of Corrections looks at what was convicted. Track for three years. If they return we know those numbers. People that have committed CDV, we can track but it's a rather small sub group. PPP keeps track of offenders being supervised for CDV. When closed out, it could be tracked whether they closed out or if they go back to prison. PPP needs to look at offenders as far as what level we put them in -- high, mid or low. Do we have a specific category that we put CDV offenders on? May add if it is CDV make it the highest level. We may want to revisit to bring attention to CDV cases. How many offenders on probation are committing CDV acts? Follow how they did in two years, whether it be treatment or prison. Track what works and what doesn't work. Can we go back two years and see who completed batterer's programs? It could be done.
- When looking at recidivism if an officer makes an arrest of CDV in one county and they go to another county and do it again, the bond judge doesn't know what happened in the other county if it's closed and has not had a chance to get entered into NCIC. Court administration, an arrest hits their website the same day it occurs. There is no reason why that data can't be used. Have to go county by county and search this person. As a judge, someone sitting in bond court would appreciate knowing what happened two days ago in another jurisdiction. If a county is submitting electronic fingerprints it should hit NCIC immediately. Victims advocate will pull criminal history for the offender at bond hearings. Best practice to submit to court.
- Technology is available to be able to allow the officer to have access to the 9-1-1 tape to review on the way to the scene and not have secondhand information coming from dispatch. It would be a manpower issue. Same thing with body cameras, to have the ability to show a jury what the officers saw at the scene. Being able to put the victim on a camera and say "tell me what happened" would be powerful information. The goal is to have prosecutors decide what is needed to pursue the case
- Do we need to look at exceptions, such as excited utterance, to the hearsay rule? Family Court does not have prosecution of domestic violence. The woman that comes to Family Court does not have a representative. The men get attorneys and the women are there by themselves. Maybe the solicitor's office could have someone to represent people in Family Court so the exceptions to hearsay could be addressed. Poor outcomes right now. Women are victims of domestic violence but they are not able to bring it up. Some counties they do have a person that represents the women but mostly they are there unrepresented and are disadvantaged. Florence used to have someone on staff that would go to Family Court proceedings with the victim. Was helpful but not enough money to fund.
- ACTION ITEM: Want to get everyone to watch a CDV trial. Thought we'd work with the Bar and film one. Get some transcripts of cases that were heard and use the transcript to portray what is really being dealt with.
- ACTION ITEM: Victims need to see a videotape on how to testify. Defense attorneys show how to testify; victims should know how to testify as well.

IV. Domestic Violence Court
Molly Flynn, Assistant Solicitor, 5th Judicial Circuit

- From arrest to prosecution: Officer arrives and someone is arrested or suspect has fled. Investigator looks into it and see what should be prosecuted. Officer schedules CDV court date, every Wednesday morning at 8:00 in the City of Columbia, all bench trials.
- On CDV day advocates are there, officers are there on standard scheduled CVD court. On bench trial, a defendant can decide to plead guilty, request jury trial, request public defender and request a continuance if attorney was just hired. Not guilty, bench trial that day. Judge asks for recommendation on sentence. Sentence to treatment more so than jail or fine. Up until bench trial date there is no time to meet with the victim and the witnesses. Typically only a 10-day notice requirement.
- Drop charge? For CDV 1st there is a drop charge. Upper level CDV there is a drop charge form. Always explain to victim that it's not their decision; it's her decision. The matter was taken out of their hands because the police were called and someone was arrested.
- If victim doesn't come on first day and there is indication that they are not pursuing it, in City Court they can summon any party. There is not subpoena party or bench warrant party. Normally ask for continuance to have another chance to get in touch with victim. Defense would make a motion to dismiss for lack of prosecution. General Sessions case, a subpoena can be issued, meaning you have to be in court on this day. Law enforcement has the power to go out and arrest. City of Columbia only has a letter in the mail telling them to come to court. On CDV day they know there is no threat if they don't come to court.
- A 9-1-1 tape be used in place of the victim sometimes. It will be objected to. There is a lot of criteria that has to be met.
- Anywhere from 8 to 25 cases every Wednesday.
- Out of 100 cases, best case is 25% dismiss, 25% conviction, 25% plea down to simple assault, 25% sent to treatment. Ten percent ask for jury trial. If they ask for a public defender there is almost always a jury trial. Have had a decent number go to treatment and don't complete so they come back and then get a conviction. Not as many assault and battery third as CDV 1st. Depends on the case and the party. If a victim is not cooperative but defendant is in jail, he may plead guilty to CDV 1st. Typically, on city cases a lot of people are pro se. They are not given legal advice. On a week by week basis it's very different.
- No ongoing data entry being done. All paper files. Nothing computerized.
- No mechanism in place from jurisdictional issue where an offender is sentenced to batterer intervention and is sentenced again in another county. People are being sent to batterer intervention over and over again. Committee to look at that problem. It's a part of sentencing so it would be the courts.
- Ginny Barr talked about new program with young offenders and CDV. In looking at the report we have here, the highest percentage of offenders charged with DV are between the ages of 18-24. When we have an offender coming out of prison and has had CDV charges, they are given instruction not to contact the victim. We will violate parole if they do. They have come to understand violating any conditions is critical. The other thing if we have a case where it appears there is CDV indicators present we will send them to batterer's program. We had a guy come out the next time and contact his victim. Went to batterer's program and paid for it himself. They are under Intensive Supervision so there is a watchful eye and we contact the victim's advocate and contact the victim so they can call.
- When law enforcement does show up, the victim wants to leave for various reasons. Is that something that we should address and how should it be addressed? Maybe training issue for officers to let them know where to go and what services are offered. There is a limited number of shelters available in the county. Rely on Victim's Assistance Network to provide hotel vouchers. It's critically important to have Victim's Assistance come to the scene and sit down because officers bring the same power of control as the offender. Plain clothes, not intimidating, a greater level of cooperation. Victim states out of 13 reports only twice did officer mention resources. Sometimes Victim's Assistance didn't even show up. Question asked: Was it a communication breakdown?

V. Comments/Discussion:

- Magistrates don't like to enforce No Contact Order. Offender and victim show up to court together. This could be a training issue.
- First offense CDV you're looking at local detention center. The recidivism rate isn't tracked through Department of Corrections. Difficulty getting that rate from the county jails. Charles mentioned, again, identifiers that are stripped. Local issue, they don't want incident reports identifiable.
- How is recidivism defined? All committees should look at it and come up with standard response. Even if convicted they aren't always assigned to a detention center.
- There is a bill in judiciary to address some issues. Presence of minors was included. Authorize judge to proceed if victim not present.
- Committees: Everyone should get on Law Enforcement; Judicial and Prosecution together; Victim Treatment; Data committee. Technology – looking at that in every aspect, not its own committee. Best Practices committee -- everyone to look at best practices in their area. Chairs will come back together. Data, collect data that we have. Can't collect it, it needs to be reported and why and distribute to other chairs.

VI. Next Meeting

- Next meeting will be based on when Chairs come back with report. Governor Haley wants a comprehensive reporting, county by county.

--- Meeting adjourned 3:28 p.m. ---