

Domestic

Violence

**Macomb County Domestic Violence
Fatality Review Team 2006 Report**

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Report Summary

Each year, intimate partner homicide happen in increasing numbers in our community. Mothers, fathers and children lose daughters, sons, mothers and fathers in unimaginable tragedy. The Macomb County Domestic Violence Fatality Review Team (MCDVFRT) concluded that more can be done to prevent domestic violence homicides. Domestic violence will end when communities say it will end and when complex, uncoordinated systems make homicide prevention a systemic priority.

The MCDVFRT determined that there are four key system responses that are critical to victim safety: Law enforcement response, criminal justice system response, civil justice response and the response of community and victims services. Although all of the recommendations of the MCDVFRT are important, the following recommendations were determined by the MCDVFRT to be of particular note:

Key law enforcement response recommendations:

- Provide ongoing, coordinated, uniform and county- wide trainings for law enforcement officers who are most often the first responders at a domestic violence scene.
- Development and implementation of countywide, uniform policies regarding investigation and pursuit of perpetrators who flee the scene of a domestic assault.

Key criminal Justice System recommendations:

- Train judges to recognize lethality indicators and respond accordingly in the issuance of personal protection orders.
- Work to end gaps between systems, including insuring that probation is aware of violations that have occurred in other jurisdictions.

Key Civil Justice System recommendations:

- End Macomb County's practice of assigning domestic violence related felonies to the same judge that hears the divorce action to insure that criminal actions are not seen as a "bargaining chip" in divorce actions.
- Work toward the development of a supervised visitation center for the safety of children and families.

Key Community and Victim Services recommendations:

- Educate the community through public service campaigns on the seriousness of domestic violence particularly when the victim is attempting to leave the relationship.
- Increase domestic violence prevention education in the early years and beyond.

It is our hope that this report will spur conversation and motivate this community to come together toward the common goal of building a safe community. We invite all community members to the table as the Macomb Community Domestic Violence Council works to implement these recommendations.

MACOMB COUNTY DOMESTIC VIOLENCE 2006 REPORT

The Macomb County Domestic Violence Fatality Review Team (MCDVFRT) reviewed five cases from 2002-2004 that involved death or near-death resulting from domestic violence. The purpose of this review is to prevent domestic violence homicides. Over 100 domestic homicides occurred in Michigan in 2005. In 2005, 87% of homicides in Macomb County were the result of domestic violence. One out of five Michigan women report sustaining some type of intimate partner violence. (Michigan Department of Community Health, Community Public Health Agency, "*Survey of Violence in the Lives of Michigan Women*," 1996.) In 1996, of approximately 1,800 murders attributed to intimates, nearly three out of four of these cases had a female victim. (US Department of Justice, "*Female Victims of Violence Crime*," December 1996.)

By reviewing these cases and making recommendations, we are asking the court personnel, law enforcement, criminal and civil attorneys, health care providers and victim rights' advocates to assess their responses to domestic violence in our community. If awareness and communication are improved, we believe that Macomb County's strategies for the prevention, intervention and prosecution of domestic violence will be strengthened, and that future review teams will have fewer fatality cases to consider.

Every year people are murdered as a result of domestic violence in Macomb County. It is impossible to say, in retrospect, that a life might have been spared had some person or agency responded differently. But this fact should not lessen the shock and outrage that prompts evaluation and action when tragedy strikes.

It is equally impossible to calculate how many domestic violence murders are prevented each year. The fact that domestic violence homicides occur does not mean that specific murders are inevitable. These murders are not random acts of violence. The victim knew the perpetrator. In most cases, one or both of the parties had had involvement with the legal system (criminal and/or civil) prior to the murder. In most cases, therefore, the various agencies are given some notice about a potential for lethal danger. It is how that information is recognized and processed that will determine success in domestic violence homicide prevention.

It is the hope and desire of the MCDVFRT that this report begins a critical conversation in Macomb County.

RECOMMENDATIONS

Domestic violence is a pattern of power and control in which one intimate partner seeks to dominate and control the other. Violence is only one tool that is used by the battering partner. Other tools include using cultural privileges, emotional abuse, withholding money, using the children and using the legal system. Because the criminal and civil legal systems are designed to address one problem on a given day, the pattern of domestic violence is often difficult for one system to ascertain. Determinations of patterns that demonstrate a high risk of lethality (increased violence, stalking, abuse of pets, threats to kill, and other factors) are counterintuitive to the way most criminal and civil matters are handled. So much of what occurs is geared toward gathering evidence toward prosecution of a particular crime rather than capturing the intricacies of power and control throughout a relationship that even successful arrest and prosecution does not guarantee victim safety. Homicide prevention requires an integrated systemic interagency response to hold the assailant accountable and make it practical for the victim to become safe.

Initially, the Fatality Review Team identified which systems are critical to safety. Traditionally, fatality review teams focus on issues surrounding arrest and prosecution. As the Review Team evaluated each homicide victim's timeline, however, it became increasingly clear that family court responses to violence pose equal barriers to victim safety. Consequently, the Fatality Review Team determined that family court was important as an oft-neglected system. It has also become clear that community response, as well as victim services, play an important part in victim safety. Therefore, the recommendations are divided into four sections: Law Enforcement, Criminal Justice, Civil Justice, and Community.

1) The Law Enforcement Response

Law enforcement response is often the initial and most critical response both as to whether the victim will continue to seek help and whether the batterer will be prosecuted. The intervention of trained officers can be the integral difference in homicide prevention. With the understanding that many law enforcement agencies already follow many of the procedures below, the following are recommended:

- a) Development and coordination of an ongoing training curriculum for law enforcement.

- b) Development and implementation of countywide, uniform policies regarding investigation and pursuit of perpetrators who flee the scene of a domestic assault.
- c) Establish policies and procedures for gun removal for convicted domestic violence offenders and domestic violence offenders subject to protective orders. Police, prosecutors and judges should make every effort to identify and remove abusers' guns at each step of the criminal justice process
- d) Police and sheriff's departments without a mechanism or policy in place to monitor the accuracy and completeness of domestic violence incident reports should develop such a mechanism through consultation with departments that have a quality assurance policy already in place.
- e) Law enforcement agencies should require the completion of a standardized domestic violence supplemental form at all domestic violence calls that prompt officers to document the history of abuse including both criminal and non criminal tactics and to identify lethality factors and the escalation of violence.
- f) Law enforcement officers should always document threats of homicide and suicide in their reports. When domestic violence and suicide threats co-exist officers should recognize the increased danger to the victim and should provide the victim with information about lethality and refer the victim to a community- based domestic violence program for services.
- g) Officers should ask victims about the level of threat or if there are guns in the home. Officers should attempt to remove guns from the home when the abuser has a history of homicidal and suicidal threats. Domestic violence supplemental forms should include questions that prompt officers to ask suspects and victims about the suspect's access to, location of and use of weapons.
- h) Police officers should hand out domestic violence information to victim's friends, family and neighbors at the scene of domestic violence crimes.

2) Criminal Justice System

The criminal justice system has the best tools for holding the batterer accountable for lesser acts of violence preceding a homicide. Batterer Intervention, probation and jail time are the most important means of insuring victim safety and abuser accountability. In the most striking of the fatalities reviewed, the perpetrators had many interactions with various aspects of the criminal justice system. Gaps between district court, circuit court,

probate court and probation created a fragmented patchwork that did not recognize the escalating violence.

Of particular concern was the issuance and enforcement of personal protection orders that are a civil order with a criminal penalty. These orders are designed to prevent serious risk of harm and in several cases the efficacy of the orders were diminished by lack of accessibility or enforcement. Similarly, probation was often not aware of criminal cases in other jurisdictions that constituted probation violations creating little or no accountability once the batterer was on probation. The following are further recommendations after a review of the public records:

- a) Train judges to recognize lethality indicators and respond accordingly in the issuance of a personal protection order.
- b) Judges should not issue personal protection order renewals that become less specific over time, if the condition exists as it did at the time of the original petition or the existence of the personal protection order itself is the cause of the cessation of violence. Judges should enter subsequent orders that reflect the original level of threat.
- c) Insure that Probation and/or the district court issuing a no contact bond is notified of personal protection order violations.
- d) Train District Judges and Magistrates to recognize lethality in setting bond conditions.
- e) Insure that domestic violence bond conditions are issued pursuant to MCL 756.6(b); MCL 764.15(e). Bond conditions that comply with this statute are entered in LEIN and convey a warrant-less arrest authority to law enforcement.
- f) Insure that the court has a mechanism to enter bond conditions ordered pursuant MCL 756.6(b); MCL 764.15(e) into LEIN.
- g) Notify prosecution of personal protection order violations and insure that the Prosecutor has ability to call witnesses.
- h) Insure that Probation is aware of violations that have occurred in other courts, create an instant communication system between district court and circuit court/probation/batterer intervention.
- i) Judges should strongly consider ordering convicted abusers only to batterer intervention programs that meet state standards and insure that court-sanctioned batterer intervention programs have a method of communicating with probation and the court system.

- j) Educate probation on the difference between batterer intervention and anger management.
- k) Keep domestic violence cases in district court to reduce the chance that it may become a “bargaining chip” in a family court custody/divorce proceeding.
- l) Prosecutors should review the charge to determine if the underlying offense supports a higher charge. For example, where a victim is strangled or sexually assaulted, charge those crimes in addition to domestic violence.
- m) Train Prosecutors and probation officers on domestic violence, particularly in recognition of lethality indicators.
- n) Train Prosecutors to request sentencing in lieu of jail time, to accredited batterer intervention programs.
- o) Train Prosecutors on the procedure for admission of other bad acts (404)(b), the effects of the confrontation clause and effective jury voir dire.
- p) Issue witness, and particularly victim, subpoenas at least three days prior to a hearing date.
- q) The Prosecutor’s office should continue the no drop policy regarding domestic violence cases. Whenever possible, prosecutors or victim services should call domestic violence victims before court date to assure attendance and alleviate their fears. The no drop/mandatory prosecution policy should be communicated to the police and courts.

3. The Civil Legal System

Most safety system audits focus primarily on police and prosecution. Funding for civil legal assistance, however, has been clearly documented as a key factor in the decline of domestic abuse in the 1990’s. (Farmer, Tifenthaler, “*Explaining the Recent Decline in Domestic Violence*” Contemporary Economic Policy, ISSN 107403529, Vol. 21, No 2 April 2003, pp. 158-178). Conversely, failures within the civil legal system are a significant barrier to safety for victims. A review of the fatalities and near fatalities that the Review Team evaluated indicated that failures in the civil legal system together with gaps between criminal and civil orders were a serious threat to victim safety. Batterers often used child custody proceedings to continue to control their spouses. Unsafe parenting provisions gave the perpetrator an opportunity to know exactly when and where the victim would be at any given time. Parenting time exchanges may present an opportunity to murder a victim, as a victim is placed in a no-win situation. Failure to

comply with a court-ordered parenting time even when the victim feels she is in mortal danger may result in a contempt of court proceeding or even a change of custody. Compliance with a parenting time order may provide the batterer an opportunity to harass the victim, assault or even murder her. Recommendations for the civil legal system are as follows:

- a) Train for judges, prosecutors and the Friend of the Court on lethality/danger for domestic violence. New judges, prosecutors and the Friend of the Court employees should be trained not just in the dynamics of domestic violence and lethality assessment but as to the importance of cross systems integration to maximize safety as well as how a survivor experiences disparate systems.
- b) Involve community in the development of a supervised visitation and exchange center staffed by professionals trained in assessing dangerousness, lethality and domestic violence.
- c) Develop and train a pro bono panel and work toward funding a highly trained legal aid program for indigent domestic violence survivors. Work to include the Macomb County Bar Association and Young Lawyers and provide free training in exchange for pro bono commitment.
- d) Recruit representatives from the Friend of the Court and Child Protective Services to become part of Macomb County Coordinated Community Response. Create a working group to address systemic gaps between Family Court and Child Protective Services.
- e) Macomb County is the only county statewide that defines “family court” as one judge determining both the criminal and civil issues within one family. All other jurisdictions comply with the definition of MCL 600.102, which defines family court as one judge hearing the divorce and probate action (child protective services case). Because Prosecutors represent the interests of the State of Michigan and a prosecution has significant impact on the Defendant and community interests, involvement of a criminal proceeding concurrent with a family matter provides an appearance of impropriety. The concurrent prosecution of a criminal offense and a divorce proceeding encourages the negotiation of criminal offenses to resolve the family matter, shifting emphasis from crime and punishment and relegating offenses to a family sphere. **It is the recommendation of this team that district court judges handle misdemeanor domestic violence cases, and felony actions be assigned to a different circuit court judge than the family court judge handling a pending custody or divorce action.**
- f) Provide judges, magistrates, referees and probation officers training on the difference between anger management and Batterer’s intervention. Provide probation with a list of Batterer Intervention Programs that meet

state standards.

- g) Provide education for civil attorneys on warning signs and safety planning and differences between domestic violence and highly contentious divorces.
- h) Provide training for Child Protective Services on the dynamics of domestic violence to insure that the non-offending parent is not being charged with controlling the behavior of the batterer.
- i) Create and distribute for use by the Friend of the Court and Family Court a questionnaire to identify lethality based on the FBI's identified risk factors.
- j) Create and distribute model parenting time orders to maximize victim safety for cases involving domestic violence.

4. Community and Victim Services

Although great strides have been made in understanding that domestic violence is a crime, community perception persists in continuing to value the crime as something “less” because of family dynamics. It is important to emphasize that domestic violence is the sole responsibility of the abuser. Victim Services through the Prosecutor’s office and Turning Point, therefore, work on two levels: to assist domestic violence victims in direct service, and to work to end domestic violence homicide by educating the public. The following are recommendations regarding community and victim services:

- a) Victim Services should do a lethality assessment and safety plan of the victim to determine whether the victim’s life is in danger and whether the relationship is likely to result in serious bodily injury or death.
- b) Conduct outreach to underserved communities on lethality indicators, safety planning and services to increase accessibility and decrease victim isolation.
- c) Prioritize and coordinate outreach efforts
- d) Train Victim Services in the criminal court process and civil court process.
- e) Community-based victim advocates should assess/address victims holistically including civil, criminal and non-legal needs.
- f) Educate community through public service campaigns on the seriousness of threats of homicide/suicide in domestic violence.

- g) Increase funding to victim services agencies to develop prevention education in early years and beyond.
- h) Promote the organization of men to speak out against violence against women.
- i) Educate the press and community on the dynamics of domestic violence to avoid the “Love gone Sour” headlines, which minimize the reality of domestic violence victims.
- j) Initiate and continue fatality review teams, evaluating progress toward completion of these recommendations
- k) Advocate for and assist in planning for supervised visitation centers

CONCLUSION

**“The world is a dangerous place to live, not because of the people who are evil but because of the people who don’t do anything about it.”
Albert Einstein**

Great strides have been made to end domestic violence over the last twenty years. More still needs to be done to improve our community and systemic responses to domestic violence. The purpose of this document is to highlight how all systems can improve in the goal of victim safety. Domestic violence homicides are preventable, but safety requires a sophisticated interaction of key systems together with a community understanding that domestic violence is a crime. Otherwise, for victims of domestic violence and their children, the world will continue to be a dangerous place.

APPENDIX

The MCDVFRT

The Macomb County Domestic Violence Fatality Review Team is statutorily authorized by MCL 400.1511 *et seq.* The Review Team was formed in the winter of 2005 and met on a monthly basis. This is the Team's first report.

Purpose

The purpose of the fatality review is to use a multi-disciplinary team to review domestic violence homicides or near homicides that have occurred in Macomb County. The goal is to make recommendations to help prevent domestic violence deaths and to improve the overall interaction of the various systems and agencies that deal with domestic violence.

Confidentiality

Pursuant to MCL 400.1511 *et seq.*, the meetings are confidential, and every member has signed a confidentiality agreement.

Membership

The Review Team was designed to be broad-based and multi-disciplinary. A moderator from the Michigan Domestic Violence Board assisted the Team. The following organizations provided at least one member to attend meetings, review and analyze cases:

- Macomb County Prosecutor's Office
- Macomb County Sheriff's Department
- Macomb County Medical Examiner
- Lakeshore Legal Aid
- Turning Point
- Macomb County Victim's Rights Advocate
- Macomb County District Judges Association

Selection and Review of Cases

Criteria to be selected for the review were 1) domestic violence-related homicide or near homicide wherein the majority of the action occurred in Macomb County; 2) no ongoing police investigation; and 3) the existence of a prior or current intimate relationship (homicides of children or other family members were not reviewed).

Participants evaluated the circumstances of each homicide through the public records of each system with which the perpetrator or victim may have had contact. The Review Team recognizes that a more thorough review of non-public documents may have helped identify additional areas for system improvement.

Using public records from law enforcement, criminal and civil court and domestic violence service providers, the Review Team assessed and developed a time line for each case. Participants then worked backward to develop recommendations that might have aided the prevention of homicide. The Review Team also identified ways to strengthen existing systems, policies and procedures that impact homicide prevention. These recommendations are part of this report.

Error recognition, accountability and systemic improvement were the focus of the review. The findings and recommendations of the Fatality Review Team are a result of an intense cross pollination of ideas and concepts as well as sharing of critical information, viewpoints and current systems protocols.

