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Domestic Violence Fatality Review

By Amber Lueken Barwick, Violence Against Women Resource Prosecutor

Many states and some individual counties around the country have dedicated teams of people committed to studying domestic violence homicides that have occurred in their jurisdictions. These teams are generally comprised of people from the criminal justice community, the victim advocacy community, the medical community, social services agencies and faith communities. The main goal of these teams is not to point fingers or pass blame for any particular domestic violence homicide, but rather to identify ways in which the community as a whole might better respond to the needs of domestic violence victims and their families before a homicide occurs.

Legislation enacted in 2009 created the first such team in North Carolina. The Mecklenburg County Domestic Violence Fatality Prevention and Protection Review Team was formed when the General Assembly passed Session Law 2009 – 52. The push for a Domestic Violence Fatality Review Team started many years ago in Mecklenburg County when representatives from various interested agencies expressed a desire to discuss openly and candidly the processes used by their various agencies in dealing with domestic violence victims.

The legislation protects professionals from confidentiality violations that may otherwise arise when sharing their records. Domestic Violence Fatality Review teams are successful, in part, when the participating agencies feel they can be honest and candid about their involvement in any particular case. Everything that occurs at the meetings or in preparation for the meetings and subsequent reports is confidential and not subject to discovery or introduction as evidence in any proceeding.

The legislation was also necessary to ensure that the Review Team had access to all records maintained by various agencies. Specifically, the Review Team has access to all medical, hospital and other records maintained by the county or any other local agency. This includes law enforcement records, medical examiner investigative data, health records, school records, mental health records and social services records. These records are only to be used during the official meetings and are collected at the end of the meetings.

The legislation does place some important restrictions on the Review Team. In all cases, the district attorney must provide written approval for access. The Review Team may not review cases that are under investigation by law enforcement or are pending in any criminal or civil court in the State. The only exception is if the district attorney provides written approval for access to records because it will not have any negative or adverse effects on the investigation or completion of the pending case.

The legislation also dictates who shall participate on the Review Team. The Review Team must include a representative from a domestic violence victim's service group, an assistant district attorney or elected district attorney, a local law enforcement representative, a representative from the medical examiner's office, a representative from the department of social services, a representative from the health department, an area mental health representative, a representative from the local public schools system, a health care system representative, a local medic or emergency services representative and a survivor of domestic violence.

In addition, the legislation sets out the powers and duties of the Review Team. These include the authority to examine the laws, rules and policies relating to confidentiality within various agencies and assess whether those laws, rules and policies inappropriately impede the exchange of information necessary to protect victims of domestic violence. This law recognized one of the biggest challenges in domestic violence cases, that is that not all agencies helping a particular victim know what the other involved agencies are doing at any given time. The clear intent of the law is to encourage better communication and information-sharing among the various groups dedicated to helping victims of domestic violence. The Review Team has the authority to take what it has learned and make recommendations for system improvements and needed resources.

The Mecklenburg County Domestic Violence Fatality Prevention and Protection Review Team has recently completed its first Interim Report which discusses the first year's review of four homicides. The report, entitled "If You Leave Me I Will Kill You," details the similarities or common factors among those four cases, identifies potential avenues for intervention, and makes recommendations for various agencies.

The common factors noted in the report include the fact that in all of the cases studied, the victim was a female and the perpetrator a male. In addition, in all four cases, the murder occurred where the victim resided. In two of the cases, the perpetrators also killed themselves at that same residence. In all of the cases, the perpetrators abused alcohol before the murders, and in two of the cases, the perpetrators also used illegal drugs. In three of the cases, the perpetrators had access to guns, but only one perpetrator used a gun to murder the victim. The other three perpetrators used much more intimate violence, two killing by strangulation and the other by blunt force head trauma.

One significant common factor, and the basis of the report's title, is that in all but one of the reviewed cases, the perpetrator made a threat to kill the victim. This is a clear indication that threats of death should be taken seriously by all involved with assisting these victims. In all of the reviewed cases, the use of intimidation, control over the victim, both physical and emotional, and economic pressure were identified.

The report also identified potential avenues for intervention. In all cases reviewed, friends, family members or co-workers were aware of the controlling nature of the perpetrator. While some expressed their concerns to the victim, none reported the behavior to law enforcement or referred the victim to any agency that might have provided assistance. These same friends, family members and co-workers failed to report the matter to social services in the two reviewed cases where children were present and exposed to the violence.

Another identified avenue for intervention lies within law enforcement, the courts and other community safety agencies. As noted, in three of the reviewed cases, the perpetrators had previously threatened to kill the victims. The report details instances where law enforcement and magistrates were contacted at some point prior to the murder and could possibly have provided a means of intervention.

Among the recommendations made in the report is a call for more training for almost everyone involved in the criminal justice system. It is recommended that law enforcement receive additional training on strangulation, identification of primary aggressor, available resources to victims and perpetrators, temporary weapons seizure, and victim safety. It is recommended that magistrates receive additional training on strangulation, identification of primary aggressor and the importance of reviewing all relevant documentation, including police incident reports, before issuing warrants or criminal summons.

As for the courts and prosecutors, it is recommended that they be educated on the importance of appropriate sentencing for domestic violence batterers. The report notes that judges must order offenders to batterer intervention programs, and must not rely on marriage counseling or couples counseling in these situations.

In addition, it is recommended that all domestic violence agencies or other health and human services agencies be educated in the lethality of domestic violence situations. This training should include recommendations to assist victims in reporting their abuse to the police, including providing assistance in filing a police report. Agency staff should be advised to take all threats of violence seriously and that they should encourage victims to take such threats seriously as well. Agency staff should be educated on the various community programs and resources available so they may make the appropriate referrals. Agencies should also make efforts to increase public awareness of domestic violence and the availability of safety planning and other assistance.

The work of the Mecklenburg County Domestic Violence Fatality Prevention and Protection Review Team is a good example of how working together can identify gaps in the system and improve communication among the various agencies working with victims of domestic violence. Such a coordinated approach is proven to enhanced victim safety and offender accountability.

If you would like more information about setting up a Domestic Violence Fatality Review Team, please contact the Violence Against Women Resource Prosecutor, Amber Lueken Barwick at the NC Conference of District Attorneys at amber.l.barwick@nccourts.org. In addition, you may wish to review the website of the National Domestic Violence Fatality Review Initiative, www.ndvfri.org. This program is funded by the U.S. Department of Justice's Office on Violence Against Women. They provide technical assistance and offer information on how other states and counties have organized their teams.

New Equipment for Domestic Violence and Sexual Assault Cases

Thanks to funds provided by the Governor's Crime Commission, we have been able to purchase audio and video digital recorders for use in domestic violence and sexual assault cases. Many districts have requested the recorders to be able to capture victim and witness interviews. There are enough recorders to provide at least one to every district, but not one to every county within a district. The grant that supports the Violence Against Women Resource Prosecutor supported the purchase of this equipment. These recorders should be arriving in your offices in the next few weeks.

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