



NEW HAMPSHIRE JUDICIAL BRANCH COMMITTEE ON DOMESTIC VIOLENCE

MEMBERS: DIANNE MARTIN, CHAIR; HON. KIMBERLY CHABOT; SUPREME COURT SUPERVISORY LAW CLERK ANNE ZINKIN; SUPERIOR COURT ADMINISTRATOR KAREN GORHAM; DOMESTIC VIOLENCE PROGRAM MANAGER JEAN KILHAM; AND CIRCUIT COURT CLERK KATIE TRIPP.

COMMITTEE ON DOMESTIC VIOLENCE TASKS:

"In fact, even within the Judicial Branch, these ideas have not yet been vetted, let alone assessed for feasibility, expense, and priority given the branch's significant staffing and funding shortages. Therefore, this report is but a starting point for the many stakeholders involved to further investigate, evaluate, and analyze the issues identified."

TASK FORCE ON DOMESTIC VIOLENCE CASES IN THE NEW HAMPSHIRE JUDICIAL BRANCH, p. 4.

COMMITTEE ON DOMESTIC VIOLENCE TASKS:

“To that end, the Court has immediately adopted Recommendation 1.1 and has created a Domestic Violence Committee as a standing committee in the Judicial Branch. It will be chaired by Dianne Martin, the Director of the Administrative Office of the Courts, and will include judges, administrators and court staff. The Committee will report directly to the Supreme Court. Its initial charge is to catalogue all of the Task Force recommendations. It will monitor the implementation of all of those recommendations that have been adopted or approved by the Judicial Branch.”

Statement by the New Hampshire Supreme Court Regarding the Report of the Task Force on Domestic Violence Cases in the New Hampshire Judicial Branch



CHARGE I RECOMMENDATIONS:

- **I.1:** The Administrative Council of the Judicial Branch should designate a standing branch Domestic Violence Committee to recommend ongoing improvements to the branch's response to domestic violence cases, and make public reports, similar to the Language Access Committee.

CHARGE I RECOMMENDATIONS:

- **1.2:** The Circuit Court, through its existing protocol working group, should continue its review and revision of the domestic violence protocols, including its practice of seeking meaningful feedback from a range of stakeholders from outside the Judicial Branch.

CHARGE I RECOMMENDATIONS:

- **1.3:** Court staff should continue to refer all who file a petition for a domestic violence order of protection to the applicable crisis center for safety planning.

CHARGE I RECOMMENDATIONS:

- **I.4:** An information sheet or brochure should be created by legal services agencies and/or crisis centers about their services, including safety planning, to help plaintiffs understand the measures that can be taken to enhance their safety before and after the defendant has been served with the protective order. The information sheet should include the contact information for the local crisis center and could include the contact information for other community resources helpful to survivors.

CHARGE I RECOMMENDATIONS:

- **I.5:** The Judicial Branch should seek additional state funding for training judicial and non-judicial staff at all court levels on domestic violence issues and trauma-informed practices and ensure that regular training opportunities are provided. Such requests may include funding for additional staff positions to ensure that sufficient staff are available to process emergency filings in the Circuit Court while regular, ongoing professional development takes place. Further, all Circuit Court judges should have the opportunity to attend the National Judicial Institute on Domestic Violence's Enhancing Judicial Skills program.

CHARGE I RECOMMENDATIONS:

- **1.6:** Because some courthouses lack private conference rooms available for parties to meet with their attorneys or advocates, the Judicial Branch should continue exploring the possibility of setting up locations for those without home computers or with travel or other restrictions to access remote hearings and/or meet with their attorneys remotely.

CHARGE 2 RECOMMENDATIONS:

- **2.1:** Representatives of the Judicial Branch should establish a working group to include criminal defense attorneys, county attorneys, and attorneys representing parties in civil protection order cases, to discuss how best to streamline a criminal case and a civil domestic violence case involving the same parties.

CHARGE 2 RECOMMENDATIONS:

- **2.2:** The Judicial Branch should seek additional funding to continue the work of the Office of Mediation and Arbitration and the Circuit Court, in partnership with the Battered Women's Justice Project, to improve safety and accountability for litigants with a history of domestic violence who are also involved in family law matters.

CHARGE 2 RECOMMENDATIONS:

- **2.3:** The Judicial Branch should seek additional funding such that more educational opportunities are available and judicial and clerical caseloads are sufficiently reduced to allow for additional time to be devoted to education.

CHARGE 2 RECOMMENDATIONS:

- **2.4:** A stakeholder group with expertise in the area of domestic violence should review existing New Hampshire statutes regarding domestic violence and determine whether any of the areas of review should be advanced through the legislative process.

CHARGE 3 RECOMMENDATIONS:

- **3.1:** Non-precedential final orders in domestic violence and civil stalking cases should be published on the New Hampshire Supreme Court's website without information that would compromise the confidentiality mandated by the VAWA.

CHARGE 4 RECOMMENDATIONS:

- **4.1:** Stakeholders should create a flowchart that helps plaintiffs decide whether to file a petition for a domestic violence protective order or a civil stalking protective order and provide those materials to survivors directly or, if appropriate, leave them at court locations.

CHARGE 4 RECOMMENDATIONS:

- **4.2:** Court forms should be more easily accessible on the Judicial Branch's website. Currently, a plaintiff has to know in what court a petition needs to be filed in order to find a form.

CHARGE 4 RECOMMENDATIONS:

- **4.3:** The final order of protection should clearly and visibly include the deadline for filing a motion to extend the order. Information about renewing orders of protection should be included in the Judicial Branch's website, brochures, and videos, to assist litigants in domestic violence and stalking cases.

CHARGE 4 RECOMMENDATIONS:

- **4.4:** The Superior Court should notify the defendant, at the time of arraignment, of the consequences of a domestic violence criminal conviction in relation to the possession and ownership of firearms.

CHARGE 5 RECOMMENDATIONS:

- **5.1.1:** The Judicial Branch should publicize the availability of “NH Law About” guides prepared by the New Hampshire Law Library regarding domestic violence protective orders. The guides are available on the Judicial Branch’s website and at the law library.

CHARGE 5 RECOMMENDATIONS:

- **5.1.2:** Legal services organizations and law schools should explore whether it is feasible to create a program in which law students, supervised by attorneys, help survivors complete domestic violence petitions. Perhaps there is a way for law students to work with survivors at crisis centers, with phone access to attorneys.

CHARGE 5 RECOMMENDATIONS:

- **5.1.3: 603** Legal Aid should explore whether projects similar to DOVE could be created to enable volunteer attorneys help survivors draft domestic violence petitions and to represent them on appeal. Perhaps, the North Country pilot program to provide unbundled legal assistance to domestic violence survivors could be reinstated and expanded.

CHARGE 5 RECOMMENDATIONS:

- **5.1.4:** The Judicial Branch should explore the impact and feasibility of regularly allowing volunteer attorneys in domestic violence order of protection cases to appear remotely.

CHARGE 5 RECOMMENDATIONS:

- **5.1.5:** The Access to Justice Commission should continue its efforts to increase the pro bono participation of the private bar, particularly in domestic violence, stalking, restraining order cases, and related appeals.

CHARGE 5 RECOMMENDATIONS:

- **5.1.6:** Victim witness advocates should direct survivors in criminal domestic violence cases to the local crisis center for safety planning with a confidential advocate and to 603 Legal Aid for assessment regarding their civil legal needs.

CHARGE 5 RECOMMENDATIONS:

- **5.1.7:** New Hampshire Legal Assistance, in consultation with other stakeholders, including those in the Judicial Branch, should create a “What You Need To Know” Fact Sheet for survivors of domestic violence that informs them of the burden of proof necessary to obtain a protective order, the factors that the court considers, a definition section for relevant terms, and an outline of the basic process, with, perhaps, a sample form showing what goes where. The fact sheet should be made available in court locations around the State.

CHARGE 5 RECOMMENDATIONS:

- **5.1.8:** New Hampshire Legal Assistance, with help from other stakeholders, should seek increased appropriations from the state for legal services to be embedded within crisis centers.

CHARGE 5 RECOMMENDATIONS:

- **5.2.1:** The staffing levels and volunteer base for crisis centers should be increased so that there is an advocate trained to provide court-accompaniment available at each Circuit Court location. Even if an advocate could not be at a courthouse full-time, courts and crisis centers should endeavor to identify ways to maximize availability, perhaps by allowing plaintiffs to have remote, direct access to crisis center advocates while at the courthouses.

CHARGE 5 RECOMMENDATIONS:

- **5.2.2:** Local police departments should be encouraged to hire victim witness advocates and to apply for federal grant money to fund those positions. Local police departments with victim witness advocates should be encouraged to partner with the relevant local crisis center to provide services to domestic violence survivors.

CHARGE 5 RECOMMENDATIONS:

- **5.2.3:** Crisis center brochures should be made available in court locations around the state as appropriate.

CHARGE 6 RECOMMENDATIONS:

- **6.1:** The Governor's Commission on Domestic and Sexual Violence should be reconvened, a chairperson should be appointed, and funding should be identified to support a coordinator for the Commission.

CHAPTER 6 RECOMMENDATIONS:

- **6.2:** A reconvened Governor's Commission on Domestic and Sexual Violence should rekindle the work of the Domestic Violence Fatality Review Committee and expand its purview to include reviewing near-death cases. If the Commission is not reconvened, the Office of Attorney General should consider this expansion.

CHARGE 6 RECOMMENDATIONS:

- **6.3:** The Domestic Violence Program Manager should continue to convene the quarterly meetings, which recently resumed, between the New Hampshire Coalition Against Domestic and Sexual Violence and the courts' administrative judges.

CHARGE 6 RECOMMENDATIONS:

- **6.4:** The Statewide Domestic Violence Advisory Council should continue to share concerns with the Judicial Branch and should consider whether a representative from the Judicial Branch, such as the Domestic Violence Program Manager, could be invited to attend the council's meetings or a part thereof.

CHARGE 6 RECOMMENDATIONS:

- **6.5:** Crisis center advocates should continue to share “real-time” issues that arise in specific cases with the Domestic Violence Program Manager.

CHARGE 6 RECOMMENDATIONS:

- **6.6:** The Judicial Branch should seek additional funding so that the Domestic Violence Program Manager has increased administrative support to enhance the work of the proposed Judicial Branch Domestic Violence Committee and related multidisciplinary efforts.

CHARGE 6 RECOMMENDATIONS:

- **6.7:** Relationships between crisis centers and courts in their service areas would be strengthened by regular meetings of court staff, judges, crisis center personnel, prosecutors, New Hampshire Legal Assistance, 603 Legal Aid, and victim witness advocates. The Domestic Violence Program Manager could coordinate these meetings.

CHARGE 6 RECOMMENDATIONS:

- **6.8:** Discussions and outreach among the various agencies working in the domestic violence arena should continue on an ongoing basis to strengthen and coordinate efforts to support survivors.

CHARGE 6 RECOMMENDATIONS:

- **6.9:** If feasible, regional centers, akin to the Strafford County Family Justice Center, should be created.

CHARGE 7 RECOMMENDATIONS:

- **7.AI:** The Judicial Branch should enhance transparency and accountability by:
 - ❖ Identifying and implementing means of soliciting more immediate feedback from branch “consumers,” in addition to the periodic judicial performance surveys.
 - ❖ Charging the Judicial Performance Advisory Committee with reviewing the current judicial performance review process to determine how best to obtain more meaningful data, consistent with the requirements of RSA 490:32 and Supreme Court Rule 56.
 - ❖ Seeking additional appropriations to enhance its ability to collect further data on civil order of protection cases.
 - ❖ Consistent with confidentiality and privacy requirements and applicable collective bargaining provisions, providing meaningful responses to complaints about judicial and non-judicial staff.
 - ❖ Creating a decision tree so that advocates and others know whom to contact when an issue arises at court.
 - ❖ Asking the Judicial Branch’s Diversity and Inclusion Steering Committee to include in its strategic plan exploring and addressing implicit gender bias and bias against survivors of, or defendants in, domestic violence cases.

CHARGE 7 RECOMMENDATIONS:

- **7.B1:** There should be standardized training and guidance for law enforcement regarding the relinquishment of weapons and the completion of the return of service form in domestic violence cases.

CHARGE 7 RECOMMENDATIONS:

- **7.B2:** Regional multi-agency task forces should be created to ensure effective enforcement of domestic violence firearm prohibitions. The members of each regional task force should include staff from the local prosecutor's office, the county attorney's office, the sheriff's office, and the police department. One way to accomplish this would be to create Domestic Violence High-Risk Teams. This group should consult the Domestic Violence Program Manager, who supervises the Judicial Branch's Protection Order Registry.

CHARGE 7 RECOMMENDATIONS:

- **7.B3:** The Office of the Attorney General should explore the barriers to, and develop best practices for, obtaining a search warrant in a domestic violence case pursuant to RSA 173-B:4, II.

CHARGE 7 RECOMMENDATIONS:

- **7.CI:** Stakeholders should approach the legislature about amending the wiretapping statute to allow a domestic violence survivor to record the abuser without his or her consent and to allow the recording to be admitted into evidence.

CHAPTER 7 RECOMMENDATIONS:

- **7.DI:** The Batterer's Accountability Committee of the Governor's Commission on Domestic and Sexual Violence should reconvene to discuss how best to move forward with regard to securing funding to update the 2002 standards and identifying an agency to certify and monitor programs.

BREAKDOWN OF RECOMMENDATIONS:

❖ INTERNAL:

- 1.1, 1.2, 1.3, 1.5, 1.6
- 2.2, 2.3
- 3.1
- 4.2, 4.3, 4.4
- 5.1.1, 5.1.4, 5.2.3
- 6.6
- 7.A1

EXTERNAL:

- 1.4
- 2.4
- 4.1
- 5.1.2, 5.1.3, 5.1.6, 5.1.8, 5.2.2
- 6.1, 6.2, 6.8, 6.9
- 7.B1, 7.B2, 7.B3, 7.C1, 7.D1

HYBRID:

- 2.1
- 5.1.5, 5.1.7, 5.2.1
- 6.3, 6.4, 6.5, 6.7

ADDITIONAL TASKS FOR THE COMMITTEE ON DOMESTIC VIOLENCE :

- Mechanisms to ensure that the protocols are being followed consistently
- Whether any screening tools, such as the screening tool(s) developed by the Battered Women's Justice Project or the LAP would be appropriate for use as part of the court process in domestic violence cases
- Drawing upon previous attempts to implement a separate domestic violence docket, whether to create a separate domestic violence court, which could include specially-trained judges, staff, and court security officers
- How clerks of court may schedule dockets in ways that reduce the number of non-associated people in the courtroom and reduces the time that domestic violence plaintiffs must wait until their cases are called

ADDITIONAL TASKS FOR THE COMMITTEE ON DOMESTIC VIOLENCE:

- Mechanisms to ensure orders of protection for survivors are being followed, which could include compliance review hearings in domestic violence cases
- Ways to enhance the physical and emotional safety of survivors when they file domestic violence and stalking petitions, which could include allowing emotional support animals in the courthouse
- Whether to adopt the SAFE tool developed by Battered Women's Justice Project, which assists survivors in identifying types of firearms²³
- Whether to adopt a process for returning firearms in criminal cases, similar to the process for returning firearms in civil protection order cases
- Whether delivery of the petition and any temporary orders in domestic violence and stalking cases can be "fast-tracked" to crisis center advocates so that those advocates can send completed packets of information to the DOVE program and survivors can get the legal assistance they need more quickly

ADDITIONAL TASKS FOR THE COMMITTEE ON DOMESTIC VIOLENCE:

- How to more effectively solicit specific information from plaintiffs in domestic violence and stalking cases with regard to the defendant's access to firearms
- How best to modify the return of service form to include more detailed information about law enforcement contact with the defendant, relinquishment of firearms and ammunition, third-party possession, and other related information to ensure that if ordered, all firearms are retrieved
- Analysis of the data the Judicial Branch already collects to comply with its obligations as a recipient of federal grants to identify trends in the disposition of domestic violence and stalking cases and recommend responses thereto
- Consistent with confidentiality and privacy concerns and the need for judicial independence, investigate how best to make domestic-violence-related judicial training, administrative oversight, and court assignments more transparent to the public

ADDITIONAL TASKS FOR THE COMMITTEE ON DOMESTIC VIOLENCE:

- Whether to create a petition that would allow someone to apply for both a domestic violence protective order and a civil stalking protective order simultaneously
- How to make form petitions for domestic violence and stalking protection orders more user-friendly and directive so that plaintiffs have a better idea of what is required of them in order to obtain those orders
- Whether it is possible to develop a mechanism to notify a survivor of the upcoming expiration of the protective order to include a reminder of the deadline to apply for an extension, if one is desired, without jeopardizing survivor safety
- Whether forms should bear a QR code through which assistance, including translation, is immediately available
- Whether it is possible and appropriate for petitions for domestic violence or stalking orders of protection to be e-filed, given the confidentiality and safety concerns attendant to those cases and the limitations of the current e-filing software