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## Governor's Commission on Domestic Violence, Sexual Assault and Stalking

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### **Governor's Commission on Domestic Violence, Sexual Assault and Stalking**

#### **APPROVED Meeting Minutes**

**February 3, 2023**

Present: Mary Krueger, Angelika Wilkerson, Commissioner Robert Quinn, Rep. Jodi Nelson, Danielle Snook, Ann Landry, Abby Simon, Judge Ed Kelly (remote), Scott Hampton (remote), Dianne Martin, Lyn Schollett, Erin Jasina, Alyssa Kuehne, Andrew Livernois.

#### **Welcome and Introductions**

Judge Kelly and Scott Hampton appearing via WebEx: stated where they are calling from and confirmed they were alone in the room.

#### **Review and Approval of January Minutes**

Approving Minutes: confirmed quorum

Amendment: Change to Commissioner Quinn, not Kelly in opening paragraph

Diane Martin made motion to approve, Alyssa Kuehne seconded

All in favor, no opposition, Lyn S. and Andrew L. abstain

#### **Updates from the Chair**

##### **Mary Krueger:**

In our March meeting, (March 3) we will have a presentation from Chief Justice Gordon MacDonald re: trial court workload study.

In May, we will have a presentation from Judge Carbon, involved on national level re: firearm relinquishment issue.

We decided in our Steering Committee that we are going to skip our April meeting. It falls on a holiday that some may be observing, and school vacation.

We sent around the financial interest form under RSA 15-A. Please get those in. Jodi Nelson will drop at the State House for you today. Otherwise just mail to the Secretary of State Office. The form needs to be completed once per year, all entities/executive functions need to be listed on the form.

### **Review of Draft Goal/Recommendation Implementation Worksheet**

#### **Goal 4: Improve Offender Accountability: Review of existing programs; revitalize efforts to update standards, certification and program monitoring; identify potential program funding source**

**Abbey Simon:** I come from the behavioral health side in corrections—we have residents who come in and we determine what mental health services can be offered which depends on the offense and any diagnosis. A sex offender assessment will be done for sex offenders to determine what the treatment should be. A LADAC assessment will be done for those with substance related offenses. They have a psychiatric unit for those residents needing a higher level of care. Those in the general population (gen pop) can participate in wellness unit—if have mental health diagnosis who want to work on their symptoms— there is a focus on community living and treatment based on what their needs are. Residents in the psychiatric unit are offered more services than those in gen pop. They have residential treatment unit for residents who are struggling to live in gen pop.

We do not have a Batterer Intervention Program. We have anger management. Someone who needs BIP won't be in anger management program.

What happens if person is not compliant/engaged in services? If they don't have a court ordered program or substance issue or sex offense, they can say no, they can't force treatment. People who have substance or sex offenses, if they refuse treatment or assessment, they will not be released early.

**Lyn:** A bill was introduced that would have allowed alternative sentencing for someone who is primary caretaker. Will likely be ITL'd. What is the interplay? Are these services available? When are services ordered?

**Andrew:** It's not uncommon for sentences to say probation if not being incarcerated, get LADAC. BIP is a problem because there aren't any providers, so they push back. They request anger management instead which is not always appropriate.

**Abbey:** When we assess, we take all paperwork in. Clinically we are going to assess you anyway.

**Dianne:** What is the distinction between anger management and BIP?

**Scott:** The assumption of the anger management program is that someone has difficulty monitoring their feelings, problematic because not managing feelings, it's managing behaviors. That doesn't get at root causes of why someone is targeting this person. It just says that when you get mad, don't hit someone. Anger management is intended to be for a shorter duration, which is why offenders opt for that. That treatment won't require the offender to have to acknowledge any of the issues, or

relationship issues they have. That can lead to victim blaming and that the other person is causing you to feel a particular way and you need to be a bigger person and not act that way.

DV Protocols: Discourages anger management in DV cases. Anything that attributes the cause of abuse to mental health, substance abuse, or anger management problem is discouraged/problematic.

Jodi: Do we have data on the success rate of the BIP?

**Scott:** One of the challenges of determining effectiveness of BIP: they were never meant to stop battering (battering intervention systems vs. programs). Analogy: It is like when you go to a physician for annual check up - you don't go there to cure disease but a number of important things happen: referrals, suggestions for lifestyle changes—but when someone walks out the door, the physician doesn't know if the patient is going to follow through with any of the suggestions. That is the same thing with BIP. We give education, information, referrals, but we can't predict what they will do when they walk out the door. Researchers focus on recidivism because it is easy, but that is extremely misleading. We don't know how effective they are, we have anecdotal information from survivors. Participants learn how to "do group".

**Andrew:** In my experience, many victims want their partner to be in a program. Many victims often don't want the offender to go to jail, they want them to be better - something to make it stop. Even though effectiveness may be a question, it is what victims want.

**Ann:** Do you think it is really what victims want or is it that victims have been conditioned to want these things? We are scratching the surface. We inherently want people to be good, but is that our societal construct? Is it perpetuating boys will be boys?

**Alyssa:** The Victim Witness Advocate will contact the victim but our role as prosecutor is to look at punishment, deterrence, rehabilitation and sentencing. They may want the abuse to stop but not relationship to stop. If he goes to jail, what happens to financial situation? Will he be more vengeful? When we offer treatment, it is on the prosecutor, not the victim.

**Angelika:** I see it as one in the same - what we want and what are the social constructs based on experiences. Survivors that I talk to, they generally want to see the person get better, especially in IPV. They have loved this person, they want them to get better, but it is also the nature of our social construct to want the best of people. I don't think they are separate things.

**Lyn:** Do you have adequate resources to do what you do?

**Abbey:** We are down on staffing. People fall into this profession. There is one person on the current staff who knew this is what she wanted to do. I'm a licensed social worker, and I saw this was a need. We could always use more staff.

**Scott:** In Strafford Co. we do work at the jail. This was started 16 years ago. We started because we had a question, "Is there a time in a defendant's life where they are most likely to be re-arrested?" We

came back with interesting answer that the highest risk time is at moment of release from county facility. It's supposed to be a deterrent:

- 1) The offender was not taking responsibility for their behavior, and were saying it is the partner's fault. There was no program to offset this idea. Many defendants do not understand "the rules" for example, that a civil order is not lifted when the bail conditions are no longer in place. This is an opportunity to provide that information.
- 2) We proposed to OVW (Office on Violence Against Women), to do pilot project to provide that information to offenders: it was a preparation (for release?) program. That was the first time they had funded a project like this. That grant paid for 7 years and then the county picked it up. Would love to see other counties doing this.

There are fewer than 6 community based programs in the State, it is especially hard in the North Country. There are programs in Manchester, Dover, with a couple near MA border. These programs as woefully underrepresented, just like with supervised visitation centers.

Affordability: they charge a third of what people would pay for a counseling session. Is it a financial burden? Yes, for some it is a barrier.

Standards created back in 2000 need to be reviewed to see what needs to be updated. Current programs are not expansive enough to cover certain populations; same sex, teen relationships, woman as the predominant aggressor.

We didn't have resources to monitor the programs—or certify the programs and monitor them. In Vermont, they have state standards and then hired someone on statewide level. Their job was to work with all of the counties, each community would take on responsibility on volunteer basis to monitor and consider programs as to whether they were up to snuff. They review paperwork, make presentations to the community. A ½ time job would support all the different communities as they implemented standards that made sense for their county. This model would fit well for us.

In speaking with Rebecca Thomforde-Hauser from CCI - one thing they are funded to do is focus on abuser accountability program around the country. We could use them to form a sub-committee to monitor certification of programs, they could help us set that up. We are eligible under the Strafford Co. JFF grant.

**Lyn:** Are they based in a state agency?

**Scott:** they are set up through sister agency (Coalition) in VT.

**Comm. Quinn:** What is being done after someone is in prison, what is happening at county level, but when can these assessments being ordered prior to sentence? What is the assessment? Is something done early on? When is the onset that someone can be assessed prior to a conviction?

**Andrew:** we usually can't do it before conviction, unless defense counsel wants it. There are times when defense counsel wants an assessment but use it to lessen sentence, especially on the sex offense side. A Court can't order a defendant to do something prior to a sentence, as it is a due process issues.

**Mary:** In terms of assessment, what are the tools? How effective are they?

**Scott:** Sometimes we will get order from court asking for BI assessment; or for them to attend BIP. All intakes are supposed to do a complete review of orders, LAP—risk assessment when they enter and ongoing through the program. We look at abuse history with the current partner and previous partners, family history, military background, mental health history, hospitalizations, school history—it is a fairly comprehensive look at what is bringing someone into the program and what happened prior to that.

**Mary:** My experience is in the civil realm. How much do you see people sent to the program in criminal vs. civil? This comes up in 173-B cases when maybe there isn't a criminal case happening or divorce/parenting when abuse has been alleged.

**Scott:** A vast majority comes through criminal courts though we do get some through child protective services. We don't get a lot through violation of protective orders. That is an option, we can order it through protective order case. It used to be that 100% would come through criminal court or some kind of court mandated intervention, now number of people as "otherwise referred" (wife said she would leave me if I didn't participate). Now 20% not officially mandated by any state agency, but mostly they are coming through the criminal courts. In NH and other states, cases that have some kind of monitoring mechanism in the system - those cases where someone is actively paying attention the compliance - has 3-4 times higher participation than those just mandating completion.

**Lyn:** What is the funding source that funds BIP? How are the other five programs set up and funded?

**Scott:** They aren't. Some programs will come up with a diagnosis so they can bill insurance. To do that they need to use a diagnostic shoe horn to get it to fit. I don't believe abuse is caused by a psychiatric problem. For example, a common diagnosis is intermittent explosive disorder - which is the opposite of what the offender is experiencing. 1) the person's reaction was outside the scope of what the provocation was; 2) requires the person did it despite their best efforts to stop it (two problems with diagnosis).

**Mary:** Do we want to create a sub-committee on this issue? Analyze the VT model, update standards, etc.

**Angelika:** I think this is a good idea. As a commission we need to look at the full scope of the problem. It's great to order BI, feels good on the state's end, but if it's not available or the cost is such a barrier and it makes the goal of achieving impossible for the offender, we aren't really ordering it in good faith.

**Mary:** Then people are going online to find programs and then we don't know quality of that program. In the family law context, we have seen people do that and we have no ability to assess what that

program does, follow standards. It becomes a default that court will allow because there is nowhere else for someone to go.

**Judge Kelly:** I really support formation of sub-committee to look at every aspect of the programs. If we were more available and now funding issues, what is the benefit of it. Enough of us to look at it as a commission, including looking at funding aspects.

**Mary:** Are there any objections to the formation of a sub-committee?

There were no objections to the formation of a sub-committee.

**Mary:** I would think Abbey and Scott would be part of sub-committee.

**Andrew:** I think it would be good for county attorneys to sit on this sub-committee.

**Andrea:** I offer to volunteer to serve on sub-committee.

**Mary:** who would like to chair?

Scott volunteered to chair. Abbey, Andrew, and Andrea will participate. Anyone else that wants to participate, please email.

**Mary:** Email Mary and Scott if you have a recommendation of a person, or would like to designate someone. Once we get sub-committee meetings going, this commission doesn't need to meet monthly, so we all don't have to be at too many meetings. Sub-committees can meet via Teams or Zoom. Have rough outline of charges for the sub-committee, we can work on that within Steering Committee and can formally adopt at the next meeting in March.

**Scott:** It's important to have some representation from victim advocacy and community corrections.

**Abbey:** I will look into probation and parole.

**Mary:** We had on the agenda to discuss Goal 5, but AG was not able to be here today. Are you ok with putting that off?

The committee unanimously agreed to put off discussion of Goal 5.

**Lyn:** Yes, need more time. Let's not cut it short. This was a good discussion.

#### **Feedback on Governance Structure:**

**Mary:** This document is something for us to utilize, rather than having a whole bylaw process. Gives us some processes, a place to name our committees, keep it all in one place. And once it is adopted we can post it to our website so people can see the scope of work we are doing. The top portion is pulled from

the Executive Order, we can't change that. It lists the Sub-committees: we have already established charges of what those sub-committees are. It names the members. Are there any changes?

**Angelika:** In the Legislative Committee, can we add stalking?

**Lyn:** Great suggestion.

No other changes were discussed.

**Mary:** Commission goals: TBD

**Mary:** Commission duties: We didn't get a chance to update it with Danielle's suggestions. We didn't want it to appear that there is one uniform victim/witness program throughout the state. Victim witness programs are independent throughout the state within the CAO.

Standards and trainings are two different things.

Updates on victim witness programs: We want to say PROGRAMS (not singular).

**Danielle:** We are referring to them as prosecution-based victims assistance providers. Some identify as coordinators vs. assistant, so we are using this umbrella term.

**Judge Kelly:** can we gather information re: number of programs around the state, Coalitions' sense for additional services needed? If we find major gaps, one goal could be to expand services.

**Danielle:** We do keep a list of all providers. A majority of those focus specifically on domestic violence. Rochester has one that does everything but DV. These look differently in various police departments. The last count was 11. A lot has to do with funding.

**Comm. Quinn:** if you are going to strike that, is it updates to everyone? Make everyone aware that the programs exist (striking local law enforcement language).

**Danielle:** we have tried to engage with different agencies around this issue. There is a reliance on funding.

**Andrew:** There is the Attorney General's protocols on DV, but then most police departments have their own internal policies with handling DV, and should align with AG's protocols. Some counties are doing ongoing trainings.

**Comm. Quinn:** Director Scippa is in charge of Police Standards and Training Academy. He could speak to what recruits get in the Academy. There are other trainings going on within the county attorneys and so forth.

**Lyn:** Let's take out the word updates throughout. How about the Commission will stay informed through regular reports. The law enforcement piece is very complex. I think the LAP should be on there.

## **Legislative Update**

**Lyn:** There's an increase in the amount of data sharing prior to testifying. We are seeing really great collaboration in reaching out to stakeholders - and it's happening on short notice. A little more integration and data sharing is happening. At the last meeting there was a conversation re: our individual roles, and putting out a shared message that we are committed to doing the work over the summer. Great collaborative work. Thank the courts, they turned around a data request very fast that was helpful to us.

**Andrew:** What about the wiretapping statute?

**Lyn:** Yes, there was a bill but we messaged that it was a task of this Commission to look at it. We don't want to make bad policy without looking at it in depth first.

## **Update from Court DV Committee**

**Dianne:** We are updating DV Protocols: the group is wrapping up draft work, and that will go to administrative judges, then it will go to internal DV committee and then to stakeholders to review.

Rec 2.1: This is about how to streamline cases where there is criminal case and DV case. We have a working group and are making some progress.

We are looking at funding opportunities. Our focus is on what money is out there and what recommendations are related to funding? Under Recommendation 1.5—we are specifically working on concept of branch wide training related to DV.

Rec 1.6: We will talk to Coalition about providing private space at court for petition filing. Someone looked at all the courts to identify space at the courts. There are lots of places where it is really tight and there is not an opportunity to designate space. What if we did laptops? We could use space that isn't dedicated but could they could use a space with laptop? We will have more conversation if that is a good idea.

Redundant (probably not the right word??) **DV server**. Someone who is trained related to DV for that specific purpose and to direct people to services.

We did collaborate with the Bar to establish a DV CLE. It is on March 29<sup>th</sup>. Justice Hantz Marconi was involved.

**Mary:** We will pick this back up in March. The Steering Committee has a meeting in between. We will finish up the Governance document. We will circulate it after steering committee has chance to review it, and we will adopt it at next meeting. Goal #5 will be discussed at the next meeting.

**Dianne:** We talked about the Advisory Council, Judge Carbon will be at next meeting. I can see if Judge Chabot can be at that meeting as well.

Lyn: Motion to Adjourn. Jodi: Seconded.

Submitted, Jodi Nelson, Secretary

Reviewed by : Mary Krueger, Chair

Adopted: March 3, 2023