

DOMESTIC VIOLENCE FATAL INCIDENT REVIEW TEAM

Rules and Procedures

I. INTRODUCTION

On June 27, 1996, Governor Carper signed into law the Domestic Violence Fatal Incidents Review Act. This legislation empowers the Domestic Violence Coordinating Council to establish a review panel to investigate and review the facts and circumstances of all domestic violence related fatalities occurring in Delaware.

On July 8, 2009, Governor Jack Markell signed into law, House Bill 146 with SA 2. This legislation allows, but does not require, the Domestic Violence Fatal Incident Review Team (FIRT) to review near deaths resulting from domestic violence. This bill does not otherwise modify the existing procedures for FIRT reviews and investigations of deaths resulting from domestic violence.

The legislative authority for The Fatal Incident Review Team of the Domestic Violence Coordinating Council is 13 Del.C. § 2105.

II. PURPOSE OF DOMESTIC VIOLENCE FATAL INCIDENT REVIEW TEAM

The primary purpose of reviewing domestic violence fatalities and near-fatalities is to decrease the incidence of such deaths and near-deaths. By conducting system audits of state agencies and private organizations which had contact with the deceased individual or the alleged perpetrator, the system's response to domestic violence may be improved. Steps may be taken to prevent future deaths, including changes in individual organizations' policies and procedures and generation of information for intervention, prevention, public policy development, and education. Trends and patterns of domestic violence deaths can be described and high risk groups and factors identified.

III. TYPE OF REVIEW

FIRT will review domestic violence-related homicides, suicides and near-deaths. The victim can be the domestic violence victim, perpetrator, or a by-stander as long as the death or near death was a result of domestic violence.

Although the domestic violence fatality reviews are retrospective in nature, their purpose is prospective. The reviews focus on identifying trends and obstacles in service delivery, assessing the adequacy of agency interventions and, most importantly, developing recommendations for improved policies or practices aimed at reducing the incidence of domestic violence deaths. The reviews will not focus on the performance of individual agency personnel.

Only deaths or near-deaths occurring after June 27, 1996, the date the legislation was signed into law, may be reviewed. All reviews must be authorized by the Department of Justice. Those fatal incidents which involve no possibility of criminal

action, as in the case of a murder/suicide, may be reviewed immediately upon authorization by the Department of Justice. The review of deaths involving criminal investigations will be delayed six months.

Any domestic violence case involving the death of a minor will be reviewed jointly by the appropriate panel of the Child Death, Near Death and Stillbirth Commission (CDNDSC) and the Fatal Incident Review Team (FIRT). Joint reviews will be conducted in instances where the minor's parents or guardians were involved in an abusive relationship and the homicide or suicide of a minor is directly related to that abuse.

The review panel may compel the attendance of witnesses and the production of records by the co-chairs' filing a praecipe for a subpoena, through the Office of the Attorney General, with the Prothonotary of any County in Delaware. The review panel may also administer oaths. Review meetings will be closed to the public.

IV. CRITERIA

The fatal incident review panel may consider only deaths that meet the following two criteria:

1. The death must occur as a result of domestic violence. Deaths occurring as a result of domestic violence include:
 - a. murder/suicides
 - b. suicides directly related to recent domestic violence
2. The victim must have been a Delaware resident at the time of the incident leading up to the death

The fatal incident review panel may consider only near-deaths that meet the following criteria:

1. The victim suffered a substantial risk of serious physical injury or death.
2. The near-death incident must have occurred as a result of domestic violence.

V. MEMBERS

Each domestic violence fatality review panel will include the following core members:

- the Attorney General or the Attorney General's designee
- the Director of the Division of Family Services or the Director's designee
- a victim advocate appointed by the Council

- the Chief Judge of the Family Court or the Chief Judge's designee
- the Chief Magistrate of the Justice of the Peace Courts or the Chief Magistrate's designee
- the Secretary of the Department of Education or the Secretary's designee,
- the Director of the Division of Substance Abuse and Mental Health, or the Director's designee
- a law-enforcement officer to be appointed by the Delaware Chiefs of Police Council.
- Three members of the DVCC (as co-Chairs of the team)

All members of the Review Team, plus other individuals invited to participate, shall be considered part of the review panel for a particular case or incident.

The Review Team shall invite other law-enforcement personnel to serve and participate as full members of a review panel in any case in which a law-enforcement agency has investigated the death or near death under review or any prior domestic violence incident involving the decedent or near death victim.

The Review Team may also invite other relevant persons to serve on an ad-hoc basis and participate as full members of the review panel for a particular review. Such persons may include, but are not limited to, individuals with particular expertise that would be helpful to the review panel, representatives from those organizations or agencies that had contact with or provided services to the individual prior to that individual's own death or near death, that individual's abusive partner or family member and/or the alleged perpetrator of the death or near death.

VI. ROLES OF PANEL MEMBERS

Each panel member will have minimum roles as defined below:

- Department of Justice
 - 1) Authorize the beginning of the reviews;
 - 2) Provide legal definitions and explanations;
 - 3) Provide criminal history background, case status, and status, and case disposition information;
 - 4) Provide assistance/guidance for the review process;
 - 5) Provide training pertaining to legal issues;
 - 6) Provide feedback from the panel to prosecutors handling domestic violence cases.
- Division of Family Services
 - 1) Provide case management information regarding past and/or current interventions with the deceased and/or the alleged perpetrator;
 - 2) Provide information regarding types of services available within the Division and/or the community which may be appropriate for the family affected or for families in similar situations;

- 3) Provide feedback from the panel to the local DFS offices;
 - 4) Use the recommendations of the panel to develop prevention and public awareness programs in the DFS system.
- Family Court
 - 1) Provide case history of the deceased and/or the alleged perpetrator and the outcome of such history, such as hearings, court orders and sentencing;
 - 2) Provide information to the panel regarding legal remedies available to victims in similar situations;
 - 3) Provide feedback from the panel to court personnel.
 - Justice of the Peace Courts
 - 1) Provide case history of the deceased and/or the alleged perpetrator and the outcome of such history, such as hearings, court orders and sentencing;
 - 2) Provide information to the panel regarding legal remedies available to victims in similar situations;
 - 3) Provide feedback from the panel to court personnel.
 - Chiefs of Police Council representative
 - 1) Provide an explanation of the investigation process;
 - 2) Serve as a liaison to local law enforcement agencies and provide feedback to law enforcement regarding issues related to domestic violence deaths
 - 3) Use the recommendations of the panel to develop prevention and public awareness programs.
 - Domestic Violence Coordinating Council members
 - 1) Provide feedback from the panel to the Coordinating Council.
 - 2) Use the recommendations of the panel to develop prevention and public awareness programs.
 - 3) Work with other state agencies and private organizations to help implement recommendations of the panel.
 - 4) Serve as panel co-chairs.
 - Ad-hoc members
 - 1) Law enforcement and others having had contact with the victim
 - a. Provide reports containing witness information and statements;
 - b. Provide information regarding the parties involved and evidence relating to the case;
 - c. Provide background information and resources to conduct the review process
 - 2) Experts
 - a. Provide additional information relevant to the case;

- b. Provide ideas for improvement in the system and services.

VII. REVIEW PROCEDURES- FATAL INCIDENTS

- 1) The review panel will meet on a monthly basis, provided there are cases eligible for review. In addition, the panel may be convened by the co-chairs of the panel or by any two other panel members.
- 2) Deaths which may be appropriate for review by the panel will be identified by Coordinating Council staff.
- 3) Coordinating Council staff will request authorization from the Attorney General's office to conduct the review of deaths identified.
- 4) Upon receiving authorization from the Attorney General's office, Coordinating Council staff will complete the Domestic Violence fatality Review Cover Sheet providing basic information regarding the victim, the alleged perpetrator, and the incident which led to the death.
- 5) Coordinating Council staff will send the Cover Sheet, a cover letter, and a blank data sheet to each core panel member representing an agency. The cover letter will request that the panel member complete the data sheet, providing information regarding their agency's contact with the victim and/or perpetrator, and return it to the Coordinating Council. The letter will also request that the panel member provide Coordinating Council staff with information regarding other agencies with whom they are aware the victim or perpetrator had contact.
- 6) Coordinating Council staff will, as accurately as possible, identify non-panel members whose participation on this particular panel would be beneficial. A cover letter describing the Fatal Incident Review Panel and requesting their participation as ad-hoc panel members will be sent to these individuals. If they agree to participate, the materials referred to in procedure number 5 will be provided.
- 7) Panel members will complete the data forms they are provided and return same to Coordinating Council staff two weeks before the review.
- 8) Upon receiving the information necessary to conduct a review, Coordinating Council staff will place the case on the calendar and notify all panel members, requesting that they bring all relevant documentation from their agency to the review.
- 9) If a personal relationship exists with the case being reviewed which may compromise objectivity, panel members are expected to excuse

themselves from participation. Such members may send a designee in their place.

- 10) Domestic violence fatality reviews will be facilitated by the co-chairs who will be elected by the Domestic Violence Coordinating Council.
- 11) All review team participants will sign the Confidentiality Statement.
- 12) Staff will begin each review by providing panel members with all data forms and other information gathered prior to the review. Staff will summarize the case under review.
- 13) Each panel member will orally summarize their agency's information and share any documentation regarding the deceased and/or the alleged perpetrator. Panel members may ask questions following each member's summary.
- 14) If a review cannot be completed due to a lack of information, panel members should take appropriate steps to gather the needed information. As such, the panel may need to:
 - Reschedule the review
 - Research additional case information
 - Invite an expert(s) who could be of assistance in completing the review.
- 15) Upon completing the review, Coordinating Council staff will shred all but one copy of the reports provided for the review. The copy will be kept securely in the Coordinating Council office. At all times specific case information will remain confidential and restricted.
- 16) Findings and recommendations by the panel shall be adopted only upon a sixty percent (60%) vote of participating members of the review panel.
- 17) DVCC staff will complete a Domestic Violence Fatal Incident Review Panel Findings form following each review. If the panel concludes that the death did not occur as a result of domestic violence, such findings will be clearly stated.
- 18) The review team will issue an annual report to the Domestic Violence Coordinating Council summarizing in an aggregate fashion all findings and recommendations made over the year by each review panel. The report shall not identify the specific cases or reviews that led to such findings and recommendations.

- 19) All Data Sheets and Panel Findings and other related review materials will be maintained by the Domestic Violence Coordinating Council for a minimum of two years.

VIII. REVIEW PROCEDURES- NEAR-DEATHS

- 1) The procedures outlined above as to the review of fatalities shall apply and be incorporated herein.
- 2) FIRT members, police-based and shelter-based advocates will refer possible cases for review to Coordinating Council staff.
- 3) Coordinating Council staff will determine if case is appropriate for review.
- 4) Coordinating Council staff will request authorization from the Attorney General's office to conduct the review identified.
- 5) Upon receiving authorization from the Attorney General's office, Coordinating Council staff will complete the Domestic Violence fatality Review Cover Sheet providing basic information regarding the victim, the alleged perpetrator, and information regarding the near-death incident.
- 6) Coordinating Council staff will send the Cover Sheet, a cover letter, and a blank data sheet to each core panel member representing an agency. The cover letter will request that the panel member complete the data sheet, providing information regarding their agency's contact with the victim and/or perpetrator, and return it to the Coordinating Council. The letter will also request that the panel member provide Coordinating Council staff with information regarding other agencies with whom they are aware the victim or perpetrator had contact.
- 7) Coordinating Council staff will, as accurately as possible, identify non-panel members whose participation on this particular panel would be beneficial. A cover letter describing the Fatal Incident Review Panel and requesting their participation as ad-hoc panel members will be sent to these individuals. If they agree to participate, the materials referred to in procedure number 5 will be provided.
- 8) Panel members will complete the data forms they are provided and return same to Coordinating Council staff two weeks before the interview of the near-death victim.
- 9) The domestic violence perpetrator must not currently be an immediate threat to the safety and well-being of the victim. Possible scenarios

include that the perpetrator completed suicide after the near fatal attack, or the perpetrator was convicted and was sentenced to life in prison or a significant amount of time in prison.

- 10) If the victim consents to participate in a victim interview as part of the process, he/she is strongly urged to discuss the process with an advocate and evaluate her risk in participating in the interview, including that this process is confidential and will remain confidential unless information is revealed which would require a mandatory report (e.g. child abuse).
- 11) Standard information will be obtained through a victim interview, if the victim agrees to participate in the interview.
- 12) The interview will take place prior to the scheduled review for that particular case, and only a small group will be present. Taking part in the interview will be the FIRT staff person, a member of the FIRT team who will act as a note-taker, an advocate and a support person of the victim's choosing and the victim.
- 13) All those present will sign the FIRT Confidentiality Statement.
- 14) The interview will take place at a neutral location, such as the Department of Justice conference room.
- 15) Following the interview, the notes taken during the interview will be shared with the FIRT team at the review of this case.
- 16) The review of the case will take place after the interview and will not include the victim; the process of the review will be the same as that involved in a fatal incident.
- 17) For the protection of all domestic violence survivors, the findings of each case will not be shared with the victim.

IX. REVIEW PROCEDURES - JOINT REVIEWS WITH CHILD DEATH, NEAR DEATH, STILLBIRTH COMMISSION

- 1) The CDNDSC Executive Director and DVCC Senior Administrator will meet quarterly to discuss potential cases, determine timing of reviews and coordinate reviews.
- 2) The DVCC determination that a case involves the death of a minor directly related to the abusive relationship of the minor's parent(s)

and/or guardian(s), thereby requiring a joint review, will be made by either DVCC and CDNDSC staff jointly.

3) Joint reviews will be conducted only after the Office of the Attorney General has authorized the case for review.

4) DVCC staff with the assistance of FIRT members will acquire written case information and as accurately as possible, identify witnesses and non-panel members whose participation would be beneficial to the review of the case(s). CDNDSC staff and CDR panel members will acquire case information from their agencies and/or through subpoenas, and CDR panel members will complete datasheets as needed/appropriate. CDNDSC and DVCC will coordinate participation by witnesses/subject matter experts as needed.

5) If a CDNDSC CDR panel has already conducted a child death review on a case requiring a joint review (e.g. expedited review), the findings and recommendations from that review will be presented to the joint review team by CDNDSC staff.

6) Joint reviews will be conducted by one of the three CDNDSC CDR panels and the FIRT Team combined. All joint review participants will be required to sign the Confidentiality Agreement.

7) CDNDSC staff will determine which of the three regional CDR panels will participate in each joint review on a case by case basis. Factor to be considered involve the following: panel that conducted the expedited review, geographic location of child/family, death related to abuse/neglect and/or current caseload of each panel.

8) Written case records, summaries and/or datasheets will be available for review, by all joint review participants, one hour prior to the meeting. Participants providing case information will be asked to present an oral summary of such information during the review. Panel members may ask questions following each participant's oral case summary.

9) Joint reviews will be facilitated by both the Chair of the CDNDSC CDR panel and the Chair of the FIRT. Both DVCC and CDNDSC staff will provide support services for the joint review meetings.

10) To remain consistent with the CDNDSC process, members of the CDR panel will be asked to vote on the preventability of the death, in accordance with CDNDSC definitions. FIRT Team members will not participate in the voting process.

- 11) Following presentations of information and discussion, the voting process to be followed by the panel chair is as follows:
- a. The chair asks the panel if they are ready to vote. If “no”, chair continues to lead discussion or review is deferred.
 - b. If “yes”, the chair will ask:
 - i. What factors, if any, contributed to the death?
 - ii. Were reasonable standards of practice met by the systems involved?
 - iii. Do we see an opportunity for system improvement?
 - c. The panel will vote to make a determination of preventable, not preventable, or undecided. Once a vote is taken, there will be no additional discussion or questions.
 - d. Exceptions to voting will be cases of SIDS and SUID. In these circumstances, the panel will identify and document any risk factors (as identified by the American Academy of Pediatrics) present in the case. These risk factors will be tracked by CDNDSC staff.
 - e. Recommendations shall be clearly written with enough information so that others not involved in the review will understand the intent and logically relate to the incident. Recommendations must be measurable and address changes to specific systems.
 - f. An affirmative vote of sixty percent of those present is needed to adopt any recommendations.

X. ADMINISTRATION

The Domestic Violence Coordinating Council will provide various functions related to the review process including, but not limited to:

- Electing three members to serve as review panel co-chairs;
- Receiving from the co-chairs recommendations for policy changes and procedural modifications;
- Working on policy and procedural changes as needed;
- Obtaining aggregate data and findings from the reviews;
- Providing appropriate reports to relevant agency heads;
- Monitoring effectiveness of reviews and ensuring implementation of panel recommendations.

