

SOUTH CAROLINA COMMISSION ON PROSECUTION COORDINATION

Judicial Circuit Solicitor Domestic Violence Fatality Review Committee Protocol¹

I. Authority and Purpose

In 2016, the South Carolina General Assembly enacted 2016 S.C. Act 147 (R151, H4666), requiring each of South Carolina's 16 Judicial Circuit Solicitors to establish an interagency circuit-wide Domestic Violence Fatality Review Committee. The mandate of the Committees is to assist local agencies in identifying and reviewing domestic violence deaths, including homicides and suicides, and to facilitate communication among the various agencies involved in domestic violence cases pursuant to the provisions of Chapter 25 of Title 16 of the South Carolina Code of Laws, and any other relevant provision of law.

II. Mission

The mission of the Domestic Violence Fatality Review Committees is to improve the coordinated statewide response to and prevention of domestic violence and domestic violence related fatalities in South Carolina through public education and training of those involved in identifying and responding to domestic violence. The Committees will identify and review domestic violence-related deaths to recommend changes to laws, policies, and procedures, and to improve communication, coordination, and collaboration among state agencies to improve the statewide response to domestic violence.

II. Judicial Circuit Committee Membership and Structure

- A. Committee members are appointed by and may be removed, with or without cause, by the Judicial Circuit Solicitor. Committee members serve either for a fixed term set by the Circuit Solicitor or at the will of the Solicitor. While cause is not necessary for removal of a Committee member, one example of cause warranting removal is failure to attend meetings or contribute to the work of the Committee in a meaningful way.
- B. Committees shall consist of no more than 30 members and no less than six members.
- C. The Circuit Solicitor shall make Committee appointments in an effort to not only include necessary expertise, but also to be representative of the communities they serve, and Committee membership should represent professional, geographic, age, and racial and ethnic diversity.
- D. The Committee may be comprised of, but is not limited to, the following:
 1. experts in the field of forensic pathology;

¹ The development of this protocol, under which the Solicitors' interagency circuit-wide Domestic Violence Fatality Review Committees must operate in the review of domestic violence fatalities, by the South Carolina Commission on Prosecution Coordination is legislatively mandated. See S.C. Code Section 16-25-720(B) (2016). The Commission plans to review and, as necessary, update the protocol on a biennial basis. The protocol were last reaffirmed and approved by the Commission on September 24, 2019.

2. medical personnel with expertise in domestic violence;
 3. coroners and medical examiners;
 4. criminologists;
 5. assistant solicitors;
 6. domestic violence abuse organization staff;
 7. legal aid attorneys who represent victims of abuse;
 8. a representative of the local bar association(s);
 9. local and state law enforcement personnel;
 10. representatives of local agencies that are involved with domestic violence abuse reporting;
 11. county health department staff who deal with domestic violence victims' health issues;
 12. representatives of local child abuse agencies; and
 13. local professional associations of persons described in this subsection.
- E. The Circuit Solicitor may appoint, upon request of the Committee, *ad hoc* members with special knowledge relevant to a case under review, to the Committee for the purpose of a specific case.
- F. Committee appointments are specific and personal, and a Committee member shall not send a substitute to a meeting of or case review conducted by the Committee.
- G. Each Committee member shall sign and comply with the Committee confidentiality agreement (which shall include a duty to report any breaches of confidentiality to the Circuit Solicitor within 24 hours), the requirements of S.C. Code Ann. Section 16-25-740, and any other requirements imposed by law. Committee members shall recuse themselves when they identify a personal conflict of interest.
- H. Additional expectations of Committee members include, but are not limited to, the following:
- 1) Members will attend all committee activities and perform assignments as given or assumed;
 - 2) Members will be courteous and respectful at all times during Committee activities and communicate in a constructive and civil manner;
 - 3) Members will, in good faith, attempt, to complete all tasks assigned to them and, if unable to do so, they will communicate such to the Chair and Coordinator of the committee;
 - 4) Members will come to all meetings with an open mind and adhere to the Mission Statement; and

- 5) Members will strive to reach a consensus on all actions.
- I. Each Committee shall have a Coordinator, who shall be a member of the Circuit Solicitor's Office or designated by the Circuit Solicitor's Office. The Coordinator shall be responsible for taking minutes of the meetings and coordinating and/or drafting reports and other documents produced by the Committee.
 - J. Each Committee shall have a Chair selected by the Circuit Solicitor or, if the Solicitor so chooses, the Committee.
- III. Committee Operation and Product
- A. Committees shall meet at least twice per calendar year, and shall conduct at least one review per calendar year.
 - B. Only deaths in which a criminal investigation is closed and there is not a pending prosecution may be reviewed by a Committee. Deaths that resulted in a criminal prosecution and conviction may not be reviewed until all direct appeals are concluded. For purposes of the work of the committees, "domestic violence related deaths" are not limited to deaths of persons who meet the definition of "household members" as defined in S.C. Code Ann. Section 16-25-20.
 - C. Each Committee and Circuit Solicitor will establish a process to determine which cases are to be reviewed.
 - D. Each Committee and Circuit Solicitor shall establish guidelines for the operation of the Committee that are not inconsistent with either this Protocol or any provision of law.
 - E. The Circuit Solicitor shall educate the Committee members regarding confidentiality requirements and the Committee's mission, duties, and process.
 - F. Meetings of the Committee are closed to the public.
 - G. Committee case reviews and other meetings shall be scheduled sufficiently in advance to allow for Committee members to arrange their schedules.
 - H. If a Committee member is not able to attend during the course of an active review, he or she may not send a substitute.
 - I. A quorum for purposes of the Committee shall be simple majority of all members of the Committee.
 - J. All guest presenters at a Committee meeting shall be required to sign a confidentiality agreement (to include acknowledgement of violation of confidentiality requirement). A guest presenter is someone, with specialized knowledge or experience, who comes to a meeting long enough to provide information on their area of expertise.
 - K. Committee meetings and case reviews shall be facilitated by the Circuit

Solicitor's designee.

- L. Voting by Committee members shall not be by proxy unless approved in writing in advance by the Circuit Solicitor.
- M. During the review process, no Committee member shall be required to violate his or her professional code of ethics or statutory requirements as they apply to confidentiality.
- N. The Committee Chair and/or any other member of the Committee shall report a violation of the confidentiality requirement, either their own or another person's, to the Circuit Solicitor.
- O. The Circuit Solicitor's Office shall maintain all Committee records.
- P. Committees may communicate electronically, provided that all Committee members take appropriate steps to ensure the confidentiality of such information. At the conclusion of a case review, committee members shall delete any material or information maintained on a computer, email system, or by any other electronic means. Upon the completion of an investigation, any printed copies of information transmitted or shared electronically with Committee members shall be delivered to the Circuit Solicitor's Office and retained pursuant to that office's policies. Committee members shall be reminded that retention of such information and documents is a crime under S.C. Code Ann. Section 16-25-740, and any violator is subject to a fine and/or imprisonment.
- Q. Except as necessary to carry out the committee's purposes and duties, members of the Committee shall not have or keep copies of information, documents, and records subpoenaed or otherwise obtained by or created by the Committee. Upon the conclusion of a case review, any information, documents, and records in the possession of a Committee member shall be delivered to the Circuit Solicitor's Office and retained pursuant to that office's policies. Committee members shall be reminded that retention of such information and documents is a crime under S.C. Code Ann. Section 16-25-740, and any violator is subject to a fine and/or imprisonment.
- R. When appropriate, the Committee may make recommendations, through a majority vote of the members. regarding:
 - 1. training, including cross-agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;
 - 2. the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence and include proposals for changes to statutes, regulations, policies, and procedures in the committee's annual report;
 - 3. education of the public regarding the incidences and causes of domestic violence, specific steps the public can undertake to prevent domestic

violence, and the support that civic, philanthropic, and public service organizations can provide in assisting the committee to educate the public;

4. training of medical examiners, coroners, law enforcement, and other emergency responders on the causes and identification of domestic violence incidents, indicators, and injuries; and
5. development and implementation of policies and procedures for its own governance and operation.

Any recommendations approved by the Committee shall be submitted, through the Circuit Solicitor's Office, to the South Carolina Domestic Violence Advisory Committee and the South Carolina Commission on Prosecution Coordination.

- S. The Committee shall submit an annual report that includes:
1. Number of identified domestic violence fatalities for that calendar year, to be listed by County;
 2. Number of fatality reviews conducted by the Committee that calendar year, indicating the number completed and the number ongoing;
 3. Updates on prior recommendations, tracking results/outcomes;
 4. Any new recommendations the Committee, by majority vote, makes, along with any suggestions or efforts to implement the recommendations;
 5. Efforts by the Committee to educate the public about domestic violence;
 6. Domestic violence services, for both victims and offenders, available in the Judicial Circuit (with contact information);
 7. Any other information requested in the Annual Report form created by the South Carolina Commission on Prosecution Coordination.

The Committee's annual report shall be submitted by December 31st of each year, through the Circuit Solicitor's Office, to the South Carolina Commission on Prosecution Coordination. The Commission shall create a document containing the annual reports of all 16 Committees and forward to the South Carolina Domestic Violence Advisory Committee and other appropriate entities. The combined annual report shall also be posted on the Commission's website.

- T. The South Carolina Commission on Prosecution Coordination shall develop standard confidentiality, correspondence, and annual report forms for use by the Committees. If necessary and appropriate, the Commission shall work with Supreme Court of South Carolina on the creation of an order or subpoena that can be used to satisfy HIPAA and any other state or federal laws requiring a court order or subpoena for disclosure.