



**Survivor Informed Task Force**

**Final Report and Recommendations**

**Submitted to the Louisiana Legislature February 2022**

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## Introduction and abstract of findings

This report is drafted in recognition that people experience many types of violence which lead directly or indirectly to their incarceration. As required by its enabling legislation, this Task Force focused its research and discussion specifically on survivors of interpersonal violence and sexual violence who were subsequently punished, mainly for defending themselves against an abuser or after being coerced into a crime.

Senate Concurrent Resolution 45 (2021), authored by Senator Patrick McMath, passed unanimously in the 2021 Regular Louisiana Legislative Session. SCR 45 created the Survivor Informed Task Force (SITF) and directed it to study the link between trauma, abuse, and subsequent incarceration, including secondary survivors of domestic or intimate partner violence, and to make recommendations to the legislature. The Task Force was given six specific duties, outlined below under “Subject Areas of Focus.” This report contains recommendations for each subject area.

### Decriminalizing Survivors

To stop the cycle of violence, Louisiana must cease compounding the trauma of violence caused by criminalizing survivors of interpersonal and sexual violence. Understanding and addressing this issue is crucial for the health and safety of all Louisiana communities because domestic violence and sexual assault affect every parish and each demographic. As Rhett Covington of the Louisiana Department of Corrections said, “To clarify, incarceration itself is a trauma-inducing event.”<sup>1</sup> Preventing the criminalization of survivors and providing relief for those already criminalized will not only serve to heal and reduce violence, but also is an opportunity for the State to save and re-direct money to true public safety. The Task Force has identified several areas in which administrative and legislative changes can provide relief for the many Louisianans incarcerated for trying to protect themselves and/or their children and to prevent future occurrences.

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<sup>1</sup> Survivor Informed Task Force correspondence, see attached

## Participants and Presenters

The enacting legislation specifically provided that members of the SITF include representatives for Senator McMath, Governor John Bel Edwards, Senate President Page Cortez, Speaker of the House Clay Schexnayder, the Louisiana Supreme Court, Department of Corrections, the Louisiana Sheriff's Association, the Louisiana District Attorney's Association, the Louisiana Commission on Law Enforcement, the Louisiana Public Defender Board, the Sexual Trauma Awareness and Response (STAR), Louisiana Foundation Against Sexual Assault (LaFASA), Louisiana Coalition Against Domestic Violence (LCADV), Voice of the Experienced (VOTE), Operation Restoration, Louisiana Survivors for Reform (LSR), and Right on Crime. The Task Force representatives and their titles are:

- Professor Katherine Mattes (Task Force Chair), Director of the Tulane Law School Criminal Justice Clinic and Co-Founder and Co-Director of the Women's Prison Project;
- Leslie Chambers (Task Force Vice-Chair), Policy Advisor in the Office of Governor Edwards;
- Katie Hunter-Lowrey (Task Force Staffer), Crime Survivor Organizer of Louisiana Survivors for Reform;
- Kimberly Kirby, Executive Director of Safe Harbor North Shore;
- Lt. Kyle Hanna, Deputy in Ascension Parish Sheriff's Office;
- Ramona Harris, Deputy Judicial Administrator at Louisiana Supreme Court;
- Francis Abbott, Executive Director of Louisiana Pardon and Parole;
- Shannon Dirmann, Counsel and Legislative Liaison at the Louisiana Sheriffs' Association;
- Sunny Funk, Executive Assistant DA and Former Chief of Family Violence Unit in Jefferson Parish District Attorney's Office;

- Kristen Raby, Victim Assistance Coordinator for Domestic Violence in the 19th Judicial District;
- Rutha Chatwood, Federal Programs Section Manager at the Louisiana Commission on Law Enforcement;
- Morgan Lamandre, Policy & Compliance Director at Sexual Trauma Awareness and Response;
- Rachel Mayeux, PREA Liaison at the Louisiana Foundation Against Sexual Assault;
- Mariah Wineski, Executive Director of the Louisiana Coalition Against Domestic Violence;
- Sandra Starr, Member of Voice of the Experienced;
- Dolfinette Martin, Housing Director for Operation Restoration;
- Tiffany Simpson, Director of Legislative Affairs at Louisiana Public Defender Board;
- Remy Starns, State Public Defender;
- Scott Peyton, State Director for Right on Crime.

SITF identified elected officials, government departments, people directly impacted by the criminal legal system, advocates, and non-profits to share their expertise with the Task Force. SITF received presentations on relevant subject matters from the following experts:

- Rhett Covington, Assistant Secretary with Department of Public Safety and Corrections
- Blake LeBlanc, with Department of Public Safety and Corrections;
- Dr. Marcus Kondkar, Associate Professor and Chair of Sociology Department at Loyola University;
- Sandra Starr, Voice of the Experienced appointee to Task Force, advocate, and survivor;

- Professor Becki Kondkar, Director, Tulane Law School Domestic Violence Clinic and founding Co-Director of the Tulane Law School Women's Prison Project;
- Professor Stas Moroz, Tulane Law School's Women's Prison Project;
- Sunny Funk, Executive Assistant DA and Former Chief of Family Violence Unit in Jefferson Parish District Attorney's Office;
- Darren Allemand, Assistant District Attorney in Jefferson Parish District Attorney's Office and Region 10 Rep. to the Louisiana District Attorney Association's ADA Board of Directors.

## Introduction to the Dynamics of Intimate Partner Violence

Intimate partner violence (IPV) is a pattern of emotional, physical, and sexual abuse that one person in a relationship engages for the purpose of obtaining control over, and compliance from, the other person in the relationship.<sup>2</sup> Over time, the cumulative effects of this abuse leave survivors of abuse feeling fearful and trapped. Although societal norms create the expectation that survivors of abuse should just “leave“ their abusive partners, survivors who do so dramatically increase their risk of being killed.<sup>3</sup> There are a number of other reasons why survivors have difficulty leaving, including but not limited to stalking and harassment, lack of economic resources or a support system, and emotional attachment.<sup>4</sup> Although the SITF recognizes that survivors of intimate partner violence may be of any gender or sexual orientation, as may abusers, over 80% of victims domestic violence are women in heterosexual relationships.<sup>5</sup> The use of the pronouns she/her and the reference to survivors as women, reflects this statistic.

While early scholarship on the dynamics of IPV relied on concepts like “learned helplessness“ and “Battered Woman Syndrome,“ (BWS) contemporary scholars have moved away from these incomplete explanations for the dynamics of abusive relationships. The “learned

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<sup>2</sup> U.S. Department of Justice and National Institute of Justice, The Validity and Use of Evidence Concerning Battering and its Effects in Criminal Trials, 14, available at <https://www.ojp.gov/pdffiles/batter.pdf>.

<sup>3</sup> *Id.* at 14.

<sup>4</sup> *Id.* at 14-15.

<sup>5</sup> See Shannan Catalano, Intimate Partner Violence, 1993-2010, Bureau of Justice Statistics (Rev. Sept. 29, 2019), available at [www.bjs.gov/content/pub/pdf/ipv9310.pdf](http://www.bjs.gov/content/pub/pdf/ipv9310.pdf); see also Molly Dragiewicz & Yvonne Lindgren, *The Gendered Nature of Domestic Violence: Statistical Data for Lawyers Considering Equal Protection Analysis*, 17 Am. U. J. Gender Soc. Pol'y & L. 229, 254-55 (2009).

helplessness“ model suggests that, as a result of repeated abuse, survivors develop depression, low self esteem, and a belief that they will never be able to escape the cycle of violence.<sup>6</sup> The “coercive control“ model frames IPV as “a course of calculated, malevolent conduct deployed almost exclusively by men to dominate individual women by interweaving repeated physical abuse with three equally important tactics: intimidation, isolation, and control.”<sup>7</sup> Victims of coercive control are not free to associate with others or move about in the world without fear of reprisal, resulting in a deprivation of their basic human liberties under hostage-like conditions.<sup>8</sup> Taken together, these conditions of coercive control constrain survivors’ activities, thinking and choices, and fundamentally alter the ways they perceive and interact with the world around them.<sup>9</sup> Unlike learned helplessness theory, the coercive control framework acknowledges that many survivors *do* actively resist the abuse and control they face, sometimes by using violence, but are often unable to escape this abusive because their partners engage in violence and other control tactics.

Courts and attorneys have historically used the term BWS to explain the behavior of survivors who use force against their abusers, but the Louisiana Supreme Court – as well as contemporary experts – have recognized that the term and concept of BWS is outdated. The Louisiana Supreme Court explained in *State v. Curley*, this term and concept improperly pathologizes survivors who use violence against their abusers.<sup>10</sup> The term BWS can create the false impression that battered women who kill their abusers do so because of a “mental defect,” rather than because they reasonably perceive a threat of danger.<sup>11</sup> Instead, as the *Curley* Court recognized, survivors’ use of force can be explained by their reasonable belief that such force is necessary to defend themselves, informed by the history of past abuse and their understanding of their partners’ patterns of behavior.<sup>12</sup>

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<sup>6</sup> Evan Stark, Re-Presenting Woman Battering: From Battered Woman Syndrome to Coercive Control, 58 Alb. L. V. 973, 996 (1995)

Coercive Control, 58 Alb. L. V. 973, 996 (1995)

<sup>7</sup> Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* 5 (2007).

<sup>8</sup> Evan Stark, Re-Presenting Woman Battering, at 1006.

<sup>9</sup> *Id.* at 1021.

<sup>10</sup> *State v. Curley*, 2016-1708 (La. 06/27/18), 250 So. 3d 236, 244.

<sup>11</sup> U.S. Department of Justice and National Institute of Justice, [The Validity and Use of Evidence Concerning Battering and its Effects in Criminal Trials](https://www.ojp.gov/pdffiles/batter.pdf), vii, available at <https://www.ojp.gov/pdffiles/batter.pdf>.

<sup>12</sup> *Curley*, 250 So. 3d at 247.

There are several common myths and misconceptions about the dynamics of IPV that lead actors in every sector of the legal system to inaccurately label survivors who defend themselves as the aggressors. These include:

A. *Myths*: Survivors of intimate partner violence do not fight back.

A common misconception about survivors of intimate partner violence is that they are weak and do not fight back or resist the abuse. As a result, women who use force to defend themselves or resist the abuse are not perceived as “victims.” In reality, it is common for battered women to fight back. A study by the Bureau of Justice Statistics found that “40 percent of battered women fought back physically, and another 40 percent fought back verbally.”<sup>13</sup>

B. *Myths*: The party who uses a weapon or causes the more serious injury in a confrontation is the “aggressor.”

Survivors who use a weapon in self-defense or cause a serious bodily injury are often incorrectly perceived as the “aggressor.” In fact, survivors typically resort to the use of a weapon because their abusers are stronger than they are. The use of a weapon in such situations equalizes the power imbalance; the use of weapons is not a sign of aggression, but rather stems from a survivor’s need to defend herself from aggression.<sup>14</sup>

C. *Myths*: If someone expresses “love” for their partner, they are not being abused.

In many cases involving survivor-defendants, law enforcement conclude that survivors are fabricating a history of abuse because they have also expressed “love” for their alleged abuser. Although expressions of love and fear may understandably appear inconsistent, it is common for survivors to feel emotionally attached to their abusers as a

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<sup>13</sup> U.S. Department of Justice and National Institute of Justice, *The Validity and Use of Evidence Concerning Battering and its Effects in Criminal Trials*, at 15.

<sup>14</sup> Elizabeth Ann Dermody Leonard, *Convicted Survivors: The Imprisonment of Battered Women Who Kill*, 31 (Dec. 1997), available at <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.610.9316&rep=rep1&type=pdf>.



result of emotional manipulation or “traumatic bonding,” where a survivor comes to see the abuser as all-powerful, believing that she cannot survive without him.<sup>15</sup>

While the above misconceptions about survivors are present in many cases involving survivor-defendants, these are just a few of the misconceptions that cause the wrongful incarceration of survivors. A number of these misconceptions also disproportionately affect Black women and other women of color, who, as a result of racial prejudice, are less likely to receive supportive services to protect themselves and are less likely to be seen as victims.<sup>16</sup> As the Louisiana Supreme Court explained in *Curley*, these misconceptions about the dynamics of IPV pervade both our society at large and our legal system.<sup>17</sup>

## Case Studies

Though every survivor’s experience is unique, and there is no one-size-fits-all solution for recovering from trauma, the following are two case studies to highlight the pathways that lead a victim of interpersonal violence who is trying to survive abuse to being incarcerated by the State of Louisiana.

### Catina Curley

Catina Curley was freed after more than ten years in prison following a Supreme Court decision in her case.<sup>18</sup> Her original conviction shows how ongoing abuse suffered by survivors is not recognized, understood, or appropriately considered by police, courts, prosecutors, or defense attorneys. As reported by Josie Duffy Rice at *The Appeal*:

Within hours, police decided that Catina shot Renaldo Curley because she was angry and jealous, killed the father of her children because of an argument gone wrong. Prosecutors framed her case as a singular instance of hot-headed depravity, a moment of irredeemable sin. But the truth is more forgiving to Catina. For over a

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<sup>15</sup> U.S. Department of Justice and National Institute of Justice, *The Validity and Use of Evidence Concerning Battering and its Effects in Criminal Trials*, at 15.

<sup>16</sup> Leigh Goodmark, *When Is A Battered Woman Not A Battered Woman? When She Fights Back*, 20 *Yale J.L. & Feminism* 75, 82 (2008).

<sup>17</sup> *Curley*, 250 So. 3d at 247, fn. 13.

<sup>18</sup> *State v. Curley*, 2016-1708 (La. 06/27/18), 250 S0. 3d 236; see also *The National Registry of Exonerations*, Catina Curley, March 7, 2019 (available at <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5520>).

decade, Renaldo physically abused Catina and their children. She wasn't the aggressor, but the victim. She wasn't angry; she was terrified.

In the 11 years before the shooting, police filed six reports alleging domestic abuse involving Renaldo, records of him choking her while hitting her in the face, biting, striking, and punching her. The reports note Catina's black eyes, the "visible teeth marks on her skin."

Catina usually didn't call the police—often because Renaldo wouldn't let her. "If I'm going to call the police or if I'm trying to call someone for help or something, he will break the phone," she testified.

Renaldo beat her in front of their children so often that Catina's daughter Brittany testified that she "could not count how many times she had seen the victim hit [her mother]," according to the Louisiana Supreme Court. When asked how often Renaldo beat his mother, their son, only 10 at the time of the shooting, replied "a lot."

And Renaldo allegedly beat his own children, who claimed he choked, hit, and "slam[med]" them. When his son was just a year old, he struck him with a telephone, according to police reports.<sup>19</sup>

Despite the evidence that Curley was defending herself, she was convicted of second-degree murder. It is worth noting that this was a non-unanimous jury verdict, 11-1, which was accepted at the time but have since been deemed unconstitutional by the United States Supreme Court.<sup>20</sup> There are many other incarcerated survivors of intimate partner violence who acted in self-defense and were convicted by non-unanimous juries. Many of these people, who are still

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<sup>19</sup> See also Josie Duffy Rice, "New Orleans Woman Sentenced to Life in Prison for Killing Abusive Husband Granted New Trial, The Appeal, July 27, 2019 (available at [https://www.nola.com/news/courts/article\\_3806a6c1-0613-576b-8110-97982547924c.html](https://www.nola.com/news/courts/article_3806a6c1-0613-576b-8110-97982547924c.html)).

<sup>20</sup> *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020).

waiting for the State of Louisiana to address their unconstitutional verdicts, have been sentenced to life in prison.<sup>21</sup>

Through post-conviction relief, Curley was granted a new trial by the Louisiana Supreme Court because her attorney failed to consult with an expert in intimate partner violence. The Court explained that such an expert could have educated the jury about the dynamics of intimate partner violence and explained how years of abuse would have reasonably influenced Curley’s belief that she needed to use force to defend herself.<sup>22</sup> Even though the State has the burden of disproving self-defense in homicide cases, the lack of expert testimony presents a barrier to the jurors adequately understanding and evaluating the claim. The Court also corrected the misconception by lawyers and judges that survivor-defendants can only present such expert testimony if they enter a “not guilty by reason of insanity” plea. Expert testimony in these cases is relevant to whether a defendant acted in self-defense, which is distinct from an insanity plea.<sup>23</sup>

In 2019, Curley received a new trial and was acquitted. As part of the ten-page written decision, Orleans Parish Criminal Court Judge Arthur Hunter said,

This is indeed a tragedy. It is Renaldo Curley, a husband and father who was killed. It is Catina Curley, a wife and mother who was convicted of second-degree murder, sentenced to life in prison, and facing the prospect of a life sentence. It is the children, who witnessed the violence between their parents which still affects them to this day... When, as a community, do we develop a comprehensive holistic plan and commit the resources to address domestic violence? When, as a community, do

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<sup>21</sup> *Ryan Whirty*, “Thirty years after non-unanimous conviction, victim of domestic abuse is paroled,” *The Louisiana Weekly*, October 26, 2020 (available at <http://www.louisianaweekly.com/thirty-years-after-non-unanimous-conviction-victim-of-domestic-abuse-is-paroled>).

<sup>22</sup> *Curley*, 250 So. 3d at 246-47.

<sup>23</sup> *Curley*, 250 So. 3d at 242. Experts and courts sometimes use the term “Battered Woman Syndrome” to explain why survivors use force against their abusers. The *Curley* Court explained that this term is “outdated” and improperly suggests that survivors are psychologically impaired (as opposed to acting reasonably in a dangerous situation). *Id.* at 12-13. This report will refer to the sort of experts contemplated by La. C. Ev. Art. 404 and the *Curley* decision as experts in intimate partner violence.

we do what is necessary to avoid the next Renaldo Curley and the next Catina Curley?<sup>24</sup>

Curley spoke with Renaldo Curley's father following the acquittal. Curley told a reporter, "I still wanted to tell him I'm sorry for the loss... just because you seen me smiling on the outside, I still have pain on the inside. That was my husband, and it's my children's father."<sup>25</sup> She hoped the divided family could begin healing: "That's something they didn't have when I was down there for 11 years. Enough is enough. It's time for peace."<sup>26</sup> The recommendations in this report offer next steps to prevent future tragedies such as these.

### **Carolyn Moore**

The following case study shows the ways coercive control and abuse lead to trauma and subsequent incarceration. Carolyn Moore is currently incarcerated at LCIW serving two life sentences for a robbery and murder in Gretna, LA. Moore was in the car in 1985 when her then boyfriend and abuser Mark Miller murdered Jacques Couret and Wilbert Laiche during a robbery of their office.<sup>27</sup> Miller threatened Moore's children and parents, physically and mentally abused her, and fed her drug habit.<sup>28</sup> According to reporting by Lea Skene at *The Advocate*:

One detective testified that when Moore was arrested, she seemed glad the police had "rescued her" from Miller. She told police she felt safer incarcerated than sleeping "in the same room with a madman." But she couldn't fully escape Miller in jail either. Held in the same facility awaiting trial, he would scream threats and obscenities from outside her cell window, other inmates testified. The guards struggled to handle his outbursts.<sup>29</sup>

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<sup>24</sup>Matt Sledge, "After decade in prison, New Orleans Woman who shot husband goes free as killing is deemed justified" *The Times-Picayune/The New Orleans Advocate*, March 1, 2019 (available at [https://www.nola.com/news/courts/article\\_3806a6c1-0613-576b-8110-97982547924c.html](https://www.nola.com/news/courts/article_3806a6c1-0613-576b-8110-97982547924c.html)).

<sup>25</sup>*Id.*

<sup>26</sup>*Id.*

<sup>27</sup>*State v. Moore*, 86-0260 (La.App. 4 Cir. 11/10/86), 498 So. 2d 82.

<sup>28</sup>*Id.* at 83.

<sup>29</sup> Lea Skene, "The getaway driver serving 2 life sentences alongside her abuser: victim or accomplice", *The Advocate*, December 21, 2020 (available at [https://www.theadvocate.com/baton\\_rouge/news/crime\\_police/article\\_67418868-4165-11eb-8525-3faeda79b7f3.html](https://www.theadvocate.com/baton_rouge/news/crime_police/article_67418868-4165-11eb-8525-3faeda79b7f3.html)).

Despite documentation of abuse presented at trial, including testimony from a domestic violence detective that Moore was likely abused, and photographic evidence collected by police of the defendant showing marks and bruises, Moore was convicted under Louisiana's law of principals (a law that holds all parties involved in the commission of a crime to be equally guilty of an offense, regardless of the level of culpability for the offense.) Moore's request for commutation was later denied.<sup>30</sup> She is now 64 years old.

One of the reasons the Pardon Board gave for denying her commutation was her "tendency to put the blame on her accomplice."<sup>31</sup> An incarcerated person cannot be successful in the current parole and pardon process without fully accepting blame and apologizing for their actions. That puts those who have been struggling to have their abuse taken seriously for years, even decades, in a no-win situation and further silences survivors who have experienced life-threatening violence.

As Lea Skene reported:

Her attorney presented photographs taken at the time of her arrest showing the injuries on her body, including a bite mark on her right arm. A detective testified the wounds were in various stages of healing and appeared to indicate regular abuse.

"I'm scared of Mark — scared to death of Mark," she told detectives during her confession. She said he threatened to "bite me until his teeth fell out, and when his teeth came out, he would finish biting me with his bloody gums."

Moore told jurors she weighed 92 pounds at the time of her arrest. She said in a recent interview that Miller would feed her "when he wanted to" and force her to have sex with him.

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<sup>30</sup>See *id*; see also *State v. Moore*, 86-0260 (La.App. 4 Cir. 11/10/86), 498 So. 2d 82.

<sup>31</sup> Skene, *supra* note 21.

When prosecutors asked why she didn't leave, Moore described the threats against her family. She said she had seen the violence Miller committed and feared what would happen if he caught her plotting an escape.<sup>32</sup>

The legal system often fails to recognize the role that interpersonal violence and sexual abuse plays in the actions of individuals labeled perpetrators of crime by the police. Many of the same individuals who have been labeled 'victims' by the legal system at one point are later labeled 'defendants' by the legal system at a later point. Once an individual is labeled a 'defendant' the violence that led that person to the moment of the alleged crime is ignored, explained away as an 'abuse excuse,' or not understood as acts of self-defense and survival. The adversarial system has failed to allow for nuance and discounts the lived experiences of survivors.

## **Survivor Informed Task Force Subject Areas of Focus**

### **Current scope of incarcerated trauma and abuse survivors in prisons, jails, and juvenile detention centers in Louisiana.**

In analyzing the current scope of trauma and abuse among incarcerated survivors in Louisiana, the SITF heard presentations from Professor Marcus Kondkar of Loyola University, as well as Professors Becki Kondkar and Stas Moroz of the Women's Prison Project at Tulane Law School. Their presentations discussed the various issues that leave survivors vulnerable to incarceration. The findings are detailed below.

Both at the national level and in the state of Louisiana, women are a growing segment of the incarcerated population, with Black and brown women significantly overrepresented.<sup>33</sup> The incarceration rate for women in Louisiana is higher than the national incarceration rate with a female incarceration rate of 71 per 100,000 residents compared to the national rate of 47 per

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<sup>32</sup> *Id.*

<sup>33</sup> See Survivor Informed Task Force Meeting October 19, 2020 Recording, starting at 32:10 (available at <https://youtu.be/qxUyTepfsaAT>; see also U.S Department of Justice, "Prisoners in 2020-Statistical Tables", (<https://bjs.ojp.gov/content/pub/pdf/p20st.pdf>).

100,000 residents.<sup>34</sup> Incarcerated women make up 4.6% of all people incarcerated in Louisiana.<sup>35</sup> About 39% of women incarcerated in Louisiana are serving sentences for violent crimes, about 28% for drug crimes and about 19% for property crimes.<sup>36</sup> Approximately, 64% of women in Louisiana prisons are housed in local facilities.<sup>37</sup> Roughly 10.5 percent of the women in Louisiana’s prison are serving life sentences.<sup>38</sup>

Women incarcerated in jails and prisons are highly likely to have experienced trauma prior to their incarceration.<sup>39</sup> Studies of this trauma vary from 50% of women in incarceration having experience previous trauma to as high as 90%.<sup>40</sup> Women most often become involved with the criminal legal system in their efforts to survive systemic challenges such as poverty, unemployment, trauma, abuse, and struggles with mental and physical health.<sup>41</sup> While there are ethical and methodological considerations which make recording the prevalence of experiences of trauma and abuse among incarcerated populations in Louisiana difficult, evidence indicates that rates in Louisiana are reflective of national statistics. A report published by the US Department of Justice in 2012 revealed that up to 86% of incarcerated women had experienced sexual violence in their lifetime, with an additional 77% and 60% reporting having experienced intimate partner and caregiver violence, respectively.<sup>42</sup> Childhood and adult trauma place women and girls at heightened risk of homelessness, substance abuse, and economic marginality, forcing many who are already vulnerable into survival by illegal means. Some are coerced into engaging in criminal activity by abusive partners, while others are arrested for defending their own and their children’s lives. By responding to what is life-threatening violence, many women become “offenders” in the

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<sup>34</sup>See Survivor Informed Task Force Meeting October 19, 2020 Recording, starting at 36:50 (available at <https://youtu.be/qxUyTepfsaAT>)

<sup>35</sup>*Id.* at 38:07. Nationally the rate is 7.3 percent.

<sup>36</sup>Department of Public Safety and Corrections Briefing Book, p. 21 Updated July 2021 (available at <https://s32082.pcdn.co/wp-content/uploads/2021/10/0m-Full-Briefing-Book.pdf>).

<sup>37</sup> See Survivor Informed Task Force Meeting October 19, 2020 Recording, starting at 38:18.

<sup>38</sup> Department of Public Safety and Corrections Briefing Book, p. 21 Updated July 2021 (available at <https://s32082.pcdn.co/wp-content/uploads/2021/10/0m-Full-Briefing-Book.pdf>).

<sup>39</sup>See Survivor Informed Task Force Meeting October 19, 2020 Recording, starting at 41:17.

<sup>40</sup>*Id.*

<sup>41</sup>See *Rachelle Ramirez*, Center for Effective Public Policy, “Reentry Considerations for Justice Involved Women, National Resource Center on Justice Involved Women, p.2, July 2016 (available at <https://cjinvolvementwomen.org/wp-content/uploads/2016/07/Reentry-Considerations-for-Justice-Involved-Women-FINAL.pdf>).

<sup>42</sup> ELIZABETH SWAVOLA, RAM SUBRAMANIAN & KRISTINE RILEY, *OVERLOOKED: WOMEN AND JAILS IN AN ERA OF REFORM* (2016).

eyes of the criminal legal system due to laws, policies, and law enforcement practices that punish their survival strategies. Thus, a history of trauma and/or abuse is one of the most prevalent pathways to a women's incarceration.<sup>43</sup>

There are issues at every level of the criminal legal system that place survivors of sexual and intimate partner violence at risk for unjust incarceration. This trend is driven by a lack of public awareness and accurate knowledge surrounding the dynamics of intimate partner violence. As explained above, and as acknowledged by the *Curley* Court, the same misconceptions about IPV that exist in society at large also pervade our legal system. Survivors are labeled “aggressors” because of societal beliefs that “real” victims must be passive or docile, because survivors’ equalizing weapons is incorrectly perceived as a sign of aggression, because people do not understand why a survivor would have a hard time “leaving” a relationship, and several other reasons. In addition to these misconceptions, the legal system tends to look at IPV as a discrete act, like a battery, instead of a pattern of behavior characterized by coercive control. This can sometimes lead the legal system to incorrectly label a survivor as the aggressor, even when the use of violence in a particular moment is a means of resisting a larger pattern of control.

Despite studies that show that structural investment in support services is one the best indicators of reduced rates of intimate partner violence, relatively few resources are directed towards protecting and supporting survivors of intimate partner violence.<sup>44</sup> The onus of addressing intimate partner violence in communities has largely been left to law enforcement, which often view survivors through the lens of a single incident rather than the larger context of abuse that might require survivors to utilize force or violence in order to protect themselves in such relationships. Law enforcement has also historically used dual arrest or mandatory arrest policies, which create pressure on individual officers to arrest both parties in a domestic violence situation if they cannot determine who was the predominant aggressor.<sup>45</sup> These policies have caused police

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<sup>43</sup> Mary Gilfus, *Women’s Experiences of Abuse as a Risk Factor of Incarceration* (2002).

<sup>44</sup> Megan B. Augustyn & Katherine C. Willyard, *The Contextual Influences of Police and Social Service Providers on Formal Help-Seeking After Incidents of Intimate Partner Violence*, 37 J. OF INTERPERSONAL VIOLENCE 1-2 (2020).

<sup>45</sup> Rhea Shinde, *Black Women, Police Brutality, and the Violence Against Women Act: How Pro-Arrest Policies Facilitate Radicalized and Gendered Police Violence*, 2 Georgetown L.J. 1 (2021).



officers to arrest survivors who only used force to defend themselves and have disproportionately affected Black women.<sup>46</sup>

These societal misconceptions about the dynamics of intimate partner violence, including but not limited to the dangers of attempting to leave an abusive relationship, also inform survivors' experiences within the criminal legal system. Due to the criminal legal system's narrow view of crime, limited capacity for screening for abuse and trauma, and a lack of knowledge surrounding intimate partner violence, prosecutors often make misinformed decisions about whether to charge survivors, and with what to charge them.<sup>47</sup> Of the many survivors impacted by the issues discussed, there are a significant number whose history of abuse and trauma cause them to feel pressured into accepting plea deals to avoid life sentences, limiting opportunities for relief through direct appeal after convictions are final. In many instances, the pressure prosecutors face to seek a conviction and their reliance on the initial, sometimes out of context findings of law enforcement in cases of intimate partner violence overshadows the circumstances of the offense, further criminalizing survivors and entrenching them in the legal system.<sup>48</sup>

Misunderstandings about intimate partner violence extend to judges, juries, and defense attorneys. Like prosecutors, defense attorneys can lack knowledge about intimate partner violence, which can influence whether crucial evidence/information is introduced at trial. If a defense attorney does attempt to introduce evidence and expert testimony regarding intimate partner violence, judges may preclude consideration of the role of abuse and intimate partner violence at trial and during sentencing out of a belief that those past events have limited relevance to the instant allegations. Although the Louisiana Supreme Court in *State v. Curley* highlighted the importance of expert testimony and evidence in cases where intimate partner violence is present, and these forms of evidence are affirmatively authorized in self-defense cases involving intimate partners, their use and admissibility has varied widely across jurisdictions. Without the presentation of expert testimony explaining the psychological impacts of intimate partner violence

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<sup>46</sup> *Id.*

<sup>47</sup> LEIGH GOODMARK, DECRIMINALIZING DOMESTIC VIOLENCE: A BALANCED APPROACH TO INTIMATE PARTNER VIOLENCE 12-34 (2018).

<sup>48</sup> *Id.*

at trial, juries often do not understand the life-threatening experiences of survivors, or the well-researched conditions under which they would respond in violence.<sup>49</sup>

The introduction of mandatory minimums and the 1979 decision to abolish parole for life sentences created a sentencing structure which limited opportunities for judges to ensure the punishment is proportional to the crime. A significant portion of survivors incarcerated for self-defense against an abusive partner or other offenses committed within the dynamics of intimate partner violence have been charged with second-degree murder.<sup>50</sup> Second-degree murder does not require premeditation, and defendants may be charged on a “felony murder” theory.<sup>51</sup> In Louisiana, a conviction carries a statutory sentence of life without parole. Many survivors may be limited by mandatory sentencing laws, a lack of resources to contribute toward their defense, and general misunderstandings about intimate partner violence.

After conviction, Louisiana laws and statutes continue to limit the pathways for incarcerated survivors to seek relief. As previously mentioned, the prevalence of guilty pleas involving incarcerated survivors often results in a waiver of their ability to directly appeal their convictions. Although they are still entitled to apply for post-conviction relief after a conviction is final, the types of claims that can be raised on post-conviction review after a guilty plea are extremely limited. Petitioners on post-conviction review only have a right to counsel if a court orders an evidentiary hearing on their petition, but there is no right to counsel in drafting that petition. Most individuals facing criminal charges cannot afford attorneys, so survivors are forced to file applications with complex procedural issues without attorneys. In some instances, survivors who cannot afford attorneys may rely on the help of other incarcerated individuals known as “inmate counsel substitutes,” who have trained themselves in legal issues in prison.

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<sup>49</sup> Brittany A Carnes, *State v. Curley: Modernizing Battered Woman's Syndrome in Louisiana*, 65 LOY. L. R. 223–248 (2019).

<sup>50</sup> Jerry Ianelli, ‘Louisiana Women Incarcerated for Defending Themselves Against Abusive Partners Seek Clemency During COVID-19 Pandemic’, *The Appeal*, 2020, <https://theappeal.org/louisiana-incarcerated-women-clemency/>, (Accessed February 4, 2022).

<sup>51</sup> Under a felony murder theory, someone can be prosecuted for second degree murder if they participated in the commission of 15 enumerated felonies which resulted in the death of another individual, even if this death was accidental or indirect. *See* La. 14:30.9(A)(2)

One major challenge for survivors seeking post-conviction relief is the time limitations imposed by Louisiana Code of Criminal Procedure Article 930.8, which states that an application will only be considered if filed within two years of when a conviction becomes final. *State v. Curley*, decided in 2018, is the primary mechanism by which survivors have applied for post-conviction relief. *Curley* held that trial counsel was ineffective for not consulting with an expert in intimate partner violence. Prior to *Curley*, trial and appellate courts repeatedly rejected claims that survivors' attorneys were ineffective for failing to consult with such experts.<sup>52</sup> However, even though there are incarcerated survivors who were wrongfully convicted for the same reason as Ms. Curley, trial and appellate courts have been rejecting recent *Curley* petitions for petitioners whose convictions have been final for over two years. This time limitation has prevented survivors who are wrongfully convicted for the same reasons as Ms. Curley from even having their claims heard in court.

Louisiana has recently enacted in Act 104 of 2021 a non-DNA-based "factual innocence" statute.<sup>53</sup> This Act, which was a joint endeavor between the Louisiana District Attorney's Association and the Innocence Project New Orleans, allows a defendant convicted of a crime to establish his or her innocence at a post-conviction proceeding using reliable evidence other than DNA. The legislature should continue their work in providing relief to wrongfully convicted individuals, focusing on the unique challenges faced by incarcerated survivors. Act 104 also allows for post-conviction plea agreements and the waiving of procedural objections to post-conviction relief. District attorneys, defense attorneys, and judges should also work together to remedy the wrongful convictions or excessive sentences of incarcerated survivors using this newly enacted provision of law.

As previously mentioned, the pardon process is one of the last pathways for relief for many incarcerated survivors; however, survivors who navigate this process often have difficulty sharing their histories of abuse. The current pardon and parole system focuses on the incarcerated person's

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<sup>52</sup> See e.g., Order Denying Post-Conviction Relief, *State v. Lisa Landry Johnson*, No. 4985-CR-05 (14<sup>th</sup> Jud. Dist. Ct. (Calcasieu Parish) 5/15/09; Order Denying Post-Conviction Relief, *State v. Beatrice Jones*, No. 97-665 (24<sup>th</sup> Jud. Dist. Ct. (Jefferson Parish) 2/22/01)(denying relief where petitioner's attorney failed to introduce expert testimony about the effect of prior abuse on the petitioner's state of mind).

<sup>53</sup> La. C.Cr.P. art. 926.2

rehabilitation and ability to express remorse. This system forces survivors to express remorse and accept culpability for responding to the conditions of their abuse. Not only can this experience be harmful and retraumatizing for survivors, but misunderstandings about the dangers of intimate partner violence and how they impact a survivor's mindset and actions can result in the denial of a pardon or parole.<sup>54</sup>

With these issues unaddressed, each phase of the criminal legal system presents an occasion for current and future survivors to be criminalized and incarcerated, rather than supported. Even when those incarcerated survivors are eventually released, their convictions create additional barriers for them while seeking housing, education, employment, healthcare, and other services upon reentry. While all formerly incarcerated people face these issues when rebuilding their lives, formerly incarcerated women, many of whom are primary caregivers, are particularly impacted due to the limited support services made available to formerly incarcerated women.<sup>55</sup> Survivors of intimate partner violence and their families should not be punished endlessly for actions taken to protect themselves and their loved ones.

Because many of the mechanisms that result in survivor's incarceration rely on the failure of Louisiana law to include or protect them, legislation is one of many channels that can and should be used to address the issues of incarcerated survivors and bring them long overdue relief.

### **Current procedures utilized by law enforcement, district attorneys, public defenders, and criminal court judges to screen for trauma and abuse.**

In order to promote the use of trauma-informed approaches by law enforcement officers, prosecutors, defense attorneys, advocates, and judges, the scope of pre-incarceration trauma among system-involved Louisianans must be understood.

The Task Force heard about screening procedures for trauma and abuse from the Department of Corrections, the Pardon and Parole Board, the Louisiana District Attorney's Association and the Sheriff's Association. It is clear there are no uniform procedures in place across agencies and departments of the criminal legal system for screening for trauma and abuse.

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<sup>54</sup> Jackie Schornstein, *Lessons from the Past: Revitalizing the Clemency Movement for Battered Women Incarcerated for Killing Their Abuser*, 1 WOMEN LEADING CHANGE: CASE STUDIES IN WOMEN, GENDER, AND FEMINISM 78–89 (2016).

<sup>55</sup> PER(SISTER), *SUPRA* NOTE 46.; Ramirez, *supra* note 29.

This gap in knowledge will continue to be a barrier in addressing the issue of criminalized survivors of violence. The limited data collection practices that are currently utilized are not shared across departments or accessible to the public. As the LDAA Victim Assistance Coordinator appointee reported to the Task Force, prosecutors collect information from survivors in a criminal case to create a service plan. However, if that survivor later becomes a defendant, the information is not shared with defense counsel or cross referenced by that or other District Attorney offices. The importance of establishing ways to collect and connect this data cannot be overstated.

However, there are structural barriers to district attorneys, judges, and defense attorneys systematically collecting data on survivor-defendants. District attorneys are prohibited from speaking with defendants due to ethical rules and the constitutional privilege against self-incrimination. While district attorneys should be conducting an investigation to determine whether a defendant's history of IPV affects their culpability in an individual case (like when a survivor-defendant kills an abusive partner), their inability to speak to defendants prevents them from gathering data in a systemic manner. Again for reasons related to constitutional protections, judges do not speak directly to defendants, except for basic preliminary questions like whether they have hired an attorney. Defense attorneys have an ethical duty to zealously advocate for their individual clients and present the best defense possible. This requires that the attorney treat as paramount the development of a strong attorney-client relationship. Imposing a data collection requirement could interfere with the development of that relationship. Although defense attorneys should be cognizant of the possibility the role that IPV plays in their clients' lives and cases, they need the flexibility to decide when it is appropriate and/or necessary to ask their clients about the sensitive history of IPV, sexual abuse, or other trauma. Further, any communication between an attorney and their client is confidential. While data gathering can be helpful to learn more about the role IPV plays in the lives of individuals charged with or convicted of crimes, neither district attorneys, nor judges, nor defense attorneys are well positioned to collect this data.

### **Recommendations regarding current procedures utilized by the criminal justice system to screen for trauma and abuse**

HB 452 of the 2021 Regular Legislative Session by Representative Paula Davis created the Domestic Violence Fatality Review panel to identify and characterize the scope and nature of domestic abuse fatalities in this State. The legislation authorizes the Louisiana Department of

Health (LDH) to secure financial or human resources or form partnerships necessary for the review panel to perform its duties and obligations. The Task Force recommends that LDH use the powers awarded them through HB 452 to, as part of their research, to review the circumstances around the domestic violence fatalities that result from a survivor of IPV defending themselves against an abuser.

### **Methods to capture data on trauma and abuse among persons in the custody of the Department of Corrections**

Although it is evident that survivors make up a large percentage of incarcerated individuals, additional data would be helpful for the State to adequately address that pre-existing trauma, particularly as incarceration itself can be a “trauma-inducing event”<sup>56</sup> and result in a range of mental health issues.

For instance, Dolfinette Martin of Operation Restoration explained that inmates face real fear of abuse from Sheriff’s deputies and correctional officers in the jails and prisons. Dr. Marcus Kondkar, who has interviewed 150 incarcerated men, observed the men to be shut down and hardened by the prison experience. The incarcerated women that Dr. Kondkar interviewed, reported that they “thought that once police intervened, they were finally safe and then felt like once they were put in parish jail they had to fight everyone there and there was nowhere to be safe.” While women described going to LCIW as a relief from trauma of the parish jails, the first few months of their time at LCIW were still incredibly traumatic. Louisiana Foundation Against Sexual Assault (LaFASA) PREA coordinator Rachel Mayeux also shared with the Task Force that assault is common in prison, as are reports of survivors of sexual assault experiencing additional violence in prison.

In order to determine what information DOC collects about the trauma history of those in their custody, the LaFASA appointee to the Task Force, Rachel Mayeux, sent questions to the appropriate parties. She presented her findings at the Task Force meeting on October 19, 2021. LCIW’s screening process indicates that approximately 75% of their population has suffered some form of abuse prior to their incarceration. However, DOC as a whole keeps very limited data about who identifies as a survivor, and the correlation between trauma and incarceration. Below is 1.) a

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<sup>56</sup> Rhett Covington, Assistant Secretary with Department of Public Safety and Corrections.

correspondence between Rachel Mayeux and Michele Dauzat, the Louisiana DOC PREA Coordinator and 2.) correspondence between Rachel Mayeux and Alicia Murray, a representative of the mental health department at the Louisiana Correctional Institute for Women (LCIW):

1. Correspondence from Michele Dauzat, LCSW, BACS, DWCC Deputy Warden, LA DPS&C Treatment Projects Coordinator, LA DPS&C Prison Rape Elimination Act Coordinator, DOJ Certified PREA Auditor/Adult Prison/Jails<sup>57</sup>:

I apologize but I will not be able to provide percentages or statistics regarding this request. However, I have attempted to answer the following to the best of my ability.

**1. In the LA DOC, what questions are on the PREA intake?**

Our screening tool includes each of the bullet points in PREA standard 115.41

**2. Part of the PREA screening process is assessing who has been sexually victimized prior. What percentage in your best estimate, identify as survivors?**

Difficult to determine

**3. Does LA DOC have their own pre-existing trauma screening that you ask in order to assess the needs of your population?**

Our PREA screening serves as our questionnaire for preexisting sexual trauma screening in addition to the battery of psychological tests completed at the Reception unit. **What percentage of your population in your best estimate, identifies as having experienced sexual abuse, domestic violence, dating violence, childhood trauma, or physical abuse prior to their entry in prison?**

Difficult to determine

**4. Is this data kept in resident's files or in a large database, or other?**

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<sup>57</sup> See attached correspondence

The data is kept in a confidential offender record and electronically. How is the data stored? Information is stored electronically and in offender record with limited viewing privileges [sic]. **Are there any formal or informal logs linking trauma and incarceration that you have at your facility?** We do not currently have any logs linking trauma and incarceration.

2. Correspondence from Alicia Murray, representative of the LCIW mental health department<sup>58</sup>:

**1. At LCIW, what questions are on the PREA intake?**

Are you a victim of prison rape or sexual assault? Is there a physical disability or developmental disability? Is there a mental disability? Is there a history of past sexual abuse? Is this the first incarceration? Are you, or do others perceive you to be lesbian, gay, bisexual, transgender, intersex or gender non-conforming? Do you consider yourself vulnerable to sexual assault? Are you under age 18 (youthful age)? Are you age 65 or older (elderly)? Small/slight physical stature? Detained solely for civil immigration purposes? Has an exclusively non-violent criminal history? Has a previous conviction of a sex offense against an adult of [sic] child?

**2. Part of the PREA screening process is assessing who has been sexually victimized prior. What percentage in your best estimate, identify as survivors?**

Approximately 75 percent

**3. Does LCIW have their own pre-existing trauma screening that you ask in order to assess the needs of your population? What percentage of your population in your best estimate, identifies as having experienced sexual abuse, domestic violence, dating violence, childhood trauma, or physical abuse prior to their entry in LCIW?**

At intake the offenders are asked whether they have been sexually abused and by whom. They are also asked about being in an abusive or battering relationship (past or current).

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<sup>58</sup> See attached correspondence



Approximately 75 percent of the population has experienced some form of abuse prior to their entry into LCIW.

**4. Is this data kept in resident's files or in a large database, or other? How is the data stored? Are there any formal or informal logs linking trauma and incarceration that you have at your facility?**

The hard copy is kept in the offenders' file and the information is inputted into a DOC database. We don't have any logs linking trauma and incarceration.

**Recommendations on capturing data on trauma and abuse among persons in the custody of the Department of Corrections**

The Task Force recognizes that detailed data collection about experiences of trauma, intimate partner violence, and sexual assault by DOC presents significant challenges. As Rhett Covington, Assistant Secretary with Department of Public Safety and Corrections, explained to the Task Force DOC does not like to inquire too deeply into these issues in a prison setting because it can trigger self-harm and confidentiality cannot effectively be protected. For this reason, the Task Force recommends that external interviewers conduct confidential trauma screenings within DOC. Dr. Marcus Kondkar, who has conducted extensive interviews within prison environments, suggests that a university may be best suited to conduct such interviews, as they would have to be approved by a university Institutional Review Board, which would ensure that the interviews would be confidential, safety practices would be in place to protect the well-being of the interviewee, and the data would be anonymized. As he explained to the Task Force on October 19, 2021, Dr. Kondkar attributes the success of his interviews with incarcerated women to the following:

Once I had explained the project and explained the goals of what I was doing and shared with them the informed consent forms, the personal appearances release forms, I was shocked at how candid people were with me. You have to do it without DOC staff in the room. An IRB approved study with all the confidential protections in place would allow you to get a sample of the 1,200 or so women that you stratify for time served, stratify for age of admission, you stratify by whether they're staying in a state or local facility. You get a representative sample and you do some in depth questions. That really will I think

lead to a much more accurate sense of what we're dealing with if it's important to check the assumption. We can just assume there is a lot of trauma in this population. If it's important to get to exactly how much we have to get to it this way.

With more detailed data about the life experiences of sexual assault, family violence and other trauma, obtained in a safe and confidential manner, the DOC, as well as other institutional actors, will be able to tailor services, protocols, and legal reforms to incarcerated people in Louisiana.

### **Legislation to provide pathways to relief for criminalized survivors**

In the effort to curb the rate of women's incarceration and the criminalization of survivors acting in self-defense or under duress of an abusive partner, the Louisiana Survivors Informed Task Force provides the following recommendations:

1. Adapt self-defense and compulsion/duress law to protect survivors of intimate partner violence.

The circumstances of IPV should be addressed prior to the point of sentencing. Because our legal system's current standards of reasonableness, imminence, and proportionality are poorly suited to include survivors of sexual abuse and intimate partner violence who defend themselves, current self-defense and duress/compulsion laws fail to highlight the implicit or explicit pressures that would cause a survivor to participate or play a role in a crime. Affirmative defense statutes that expand legal understandings of self-defense and compulsion/duress could help survivor-defendants avoid the negative consequences of a criminal conviction and the retraumatizing effects of incarceration.

2. Clarify evidence laws to ensure that evidence and expert testimony related to IPV are admissible outside the self-defense context.

For many years, the Department of Justice and other organizations and agencies have documented the importance and necessity of using experts on intimate partner violence and abuse at trial, to educate the factfinder on the dynamics and psychological impacts of intimate partner violence. Louisiana Code of Evidence Article 404 authorizes the use of such evidence in self-defense cases involving intimate partners with a history of

prior abuse. This rule should also be applied to those survivor-defendants who were coerced into committing a crime as a direct result of being a survivor of intimate partner violence or sexual violence.

3. Create opportunities for deviation from mandatory sentencing when mitigating evidence of intimate partner violence is present.

A number of jurisdictions across the country have created and implemented laws that give judges the flexibility in the face of mandatory sentencing guidelines to sentence survivors convicted of offenses related to their abuse to shorter terms of imprisonment or to allow them to avoid incarceration altogether through alternative-to-incarceration programs, which can provide access to supportive housing as well as healthcare services such as drug rehabilitation and mental-health counseling. In addition to passing legislation to give judges increased flexibility, the Legislature could recommend that the Sentencing Commission and the Louisiana Law Institute work with experts in intimate partner violence to study the ways in which criminal laws and sentencing laws might better reflect the mitigation and dynamics of intimate partner violence.

4. Remove time bar for incarcerated survivors to file for post-conviction relief.

Louisiana's current Code of Criminal Procedure provides that individuals who are otherwise time barred from seeking post-conviction relief may have additional time to seek relief for claims of factual innocence supported by certain forms of reliable evidence. This statute can be clarified to include survivors of IPV who are innocent because they acted in self-defense or under duress/compulsion, especially those for whom evidence or expert testimony of intimate partner violence was not presented at trial. In *State v. Curley*, the Louisiana Supreme Court stressed the centrality of such experts to the reliability of verdicts in this class of cases.

5. Create opportunities for re-sentencing in cases where evidence of intimate partner violence is present.

As stated in SCR 45 authored by Senator McMath, the Domestic Violence Survivors Justice Act (DVSJA) passed by New York state in 2019 can act as a model for

survivors already in prison. The DVSJA created opportunities for resentencing survivors of IPV. Specifically, survivors whose convictions are final can now petition the courts for new sentencing hearings where they can present mitigating evidence regarding their experiences of abuse and trauma.<sup>59</sup> This statute might serve as a model for Louisiana.

#### 6. Enhance Pardon Eligibility

In 2020, Governor Greg Abbott of Texas established a customized clemency application specifically for survivors of human trafficking or intimate partner violence, which allows applicants to provide a statement to the Board of Pardons and Paroles about their experiences of trauma for review and recommendation to the Governor. Other opportunities for relief include creating an accelerated, single-stage commutation docket overseen by experts trained to recognize and respond to intimate partner violence to review the sentences of people convicted of crimes.<sup>60</sup>

#### 7. Establish funding for alternatives-to-incarceration, reentry programs, and other life-supporting social services.

Providing relief to incarcerated survivors would save the Louisiana Department of Corrections money. In the pursuit of justice, that money could be reallocated to existing social services for survivors in need of counseling, treatment, or other reentry support. Investment in this type of programming can also help survivors avoid incarceration altogether.<sup>61</sup>

### **Legislation to build and sustain a more trauma informed criminal legal system**

As has been discussed, the current criminal legal system revictimizes survivors by criminalizing their actions rather than supporting them. To prevent this from happening legislation creating a more trauma-informed criminal legal system will be necessary. Legislation can focus

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<sup>59</sup>N.Y. P.L. § 440.47(1).

<sup>60</sup> María Méndez, GOV. ABBOTT ESTABLISHES CLEMENCY APPLICATION FOR SURVIVORS OF DOMESTIC VIOLENCE AND SEX TRAFFICKING THE DALLAS MORNING NEWS (2020), <https://www.dallasnews.com/news/politics/2020/02/20/gov-abbott-establishes-clemency-application-for-survivors-of-domestic-violence-and-sex-trafficking/>.

<sup>61</sup> THE LOUISIANA WOMEN'S INCARCERATION TASK FORCE, LOUISIANA WOMEN'S INCARCERATION TASK FORCE: FINAL REPORT AND RECOMMENDATIONS (2020), <https://drplibrary.legis.la.gov/dbtw-wpd/Reports/DPS&C/WomensIncarceration-2020.pdf>

not only on remedies to help survivors who have entered the criminal legal system as defendants, as has been discussed above, but also on remedies to protect survivors before they must resort to violence. A crucial form of this assistance is financial support. Free From shows the number one reason women stay in an abusive relationship is because they cannot afford to leave and stay safe. Being a crime victim is expensive: “The CDC estimates the lifetime cost of intimate partner violence for female survivors to be \$103,767. On top of this financial burden, 99% of survivors experience economic abuse by their perpetrator – not being allowed to work or losing their job as a result of the abuse, not having access to cash or bank accounts, being coerced into debt and/or taking on fraudulent debt created by their abuser.”<sup>62</sup> These forms of coercive control, in addition to physical and sexual abuse, often leave survivors of interpersonal violence and sexual assault with no option for their own survival aside from acting in self-defense or being forced to commit a crime. Legislation can be passed to support survivors and end the cycle of victimization.

### **Recommendations regarding legislation to build and sustain a more trauma-informed criminal legal system**

There are many ways the criminal legal system can support survivors and provide trauma informed services before a survivor faces incarceration. A few include:

1. Louisiana currently lacks enough services for survivors. For instance, according to LaFASA, four parishes completely lack any services for survivors of sexual abuse. Also, unlike states such as New Hampshire<sup>63</sup> and Kentucky<sup>64</sup>, Louisiana does not have a uniform protocol for law enforcement to address domestic violence. Louisiana’s Domestic Violence Prevention Commission<sup>65</sup> has been tasked with making recommendations to the legislature with respect to domestic violence prevention and intervention. The recommendations of that commission should be used by the Louisiana Legislature to increase resources for survivors and decrease the high rates of interpersonal violence in our state.

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<sup>62</sup> National Center for Injury Prevention and Control, Costs of Intimate Partner Violence Against Women in the United States (2003), <https://www.cdc.gov/violenceprevention/pdf/ipvbook-a.pdf>.

<sup>63</sup> <https://www.courts.nh.gov/our-courts/circuit-court/district-division/protocols/domestic-violence-protocols>

<sup>64</sup> <https://www.klc.org/News/8437/new-law-enforcement-model-policy-on-domestic-violence>

<sup>65</sup> See attached report.

According to the Legislative Auditor:

The state turned down an average of 2,659 requests for shelter from domestic violence victims annually from 2015 through 2020. There are only 386 domestic violence shelter beds across 16 facilities in the state. In 2020, those shelters took in 2,212 individuals.

Central Louisiana has no domestic violence shelter at all, according to the audit, though its largest parish, Rapides, issued 849 protective orders last year. That was the 10th highest number of protective orders issued in any Louisiana parish in 2020. Louisiana also lost a shelter in 2017, when a facility in New Iberia closed.

The state struggles overall with domestic violence. In 2017, Louisiana had the second-highest rate of female homicide in the country behind Alaska. In 2018, it had the fifth-highest rate. The bulk of women murdered in both years – around 60 percent – were killed by intimate partners, according to the audit.<sup>66</sup>

The Task Force recommends legislation to address access to support services and resources. Survivors must be able to access housing, financial, and health support.

2. Additionally, bureaucratic and communication hurdles must be removed for survivors of violence. An investigation by the LA Illuminator shows a lack of communication and transparency between the criminal legal system and sexual abuse survivors trying to access their records. Withholding of medical and law enforcement records from survivors is infantilizing and unjust. Recommendations by the Louisiana Sexual Assault Oversight Commission that call for more accessibility and transparency should be implemented immediately so that survivors may easily access their records. As Julie O'Donoghue reported:

Advocates think more aggressive action should be taken, like a new state law, that would ensure survivors get to see their exam documents. Other crime victims, such as gunshot survivors, are able to access their medical reports without question. Sexual assault victims

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<sup>66</sup> Julie O'Donoghue, LOUISIANA DOESN'T ALLOCATE ENOUGH MONEY TO DOMESTIC VIOLENCE SERVICES, AUDIT FINDS LOUISIANA ILLUMINATOR (2021), <https://lailuminator.com/2021/12/23/louisiana-doesnt-allocate-enough-money-to-domestic-violence-services-audit-finds/#:~:text=In%202017%2C%20Louisiana%20had%20the,partners%2C%20according%20to%20the%20audit.>

should be given the same opportunity, they said.

“They’ve been robbed of their control and their autonomy, and when they try to scratch and claw for information to achieve some measure of justice, they are denied that,” said Sean Cassidy, Williams’ lawyer and an attorney with Louisiana Foundation Against Sexual Assault.

“It is re-traumatizing,” he said.<sup>67</sup>

3. The Task Force also recommends legislative changes to the Crime Victims Reparations Fund to expand eligible expenses, remove burdensome police reporting timelines, and generally make the fund more accessible to victims. Survivors are in need of direct financial assistance. Yet only one in eight survivors of violence applies for the Crime Victims Reparations Fund<sup>68</sup>, which can provide desperately needed monies and reimbursements following trauma. The administrators of the criminal legal system can inform survivors earlier in the process that this fund is available for them. The legislature should address these problems and inadequacies with the fund through legislative changes that direct the Louisiana Commission on Law Enforcement to administer the fund in a more efficient manner. The Task Force recommends changes to the fund that would increase safety and support for survivors of interpersonal violence such as removing the mandatory requirement of reporting to police within 72 hours of a crime. Reporting to law enforcement in order to be eligible to receive money from the CVR program is not a requirement for survivors of sexual assault and this lower barrier should be made consistent for survivors of all crimes. The Task Force also recommends increasing the amount of the emergency awards from \$500 to \$1000 and adding reimbursement of relocation expenses to the CVR program. The CVR Board could promulgate rules to effectuate those changes.

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<sup>67</sup> Julie O'Donoghue, IN LOUISIANA, RAPE SURVIVORS ARE DENIED ACCESS TO THEIR OWN MEDICAL RECORDS LOUISIANA ILLUMINATOR (2021), <https://lailluminator.com/2021/12/16/in-louisiana-rape-survivors-are-denied-access-to-their-own-medical-records/>.

<sup>68</sup> State of Louisiana Crime Victims Reparations Board, Annual Report Fiscal Year 2019. <http://lcle.te-dev.com/wp-content/uploads/2021/10/CVR-Annual-Report-FY-2019.pdf>. See also U.S. Department of Justice, Federal Bureau of Investigation, CRIME IN THE U.S. 2019 (2019), <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-8/table-8-state-cuts/louisiana.xls>.

4. Federal grants such as those through the Victims of Crime Act Fund do not allow representation of victims for criminal defense<sup>69</sup>. Advocates and service providers in Louisiana are limited by this prohibition from fully offering wrap-around services to a survivor if they have been criminalized. This is not a problem that can be addressed on a local or state level. This Task Force recommends that the Louisiana Legislature support a joint resolution that would request the United States Congress to support an expansion of civil legal grants that serve victims of crime to be able to consult, collaborate, and facilitate criminal legal representation for survivors when their victimization is directly related to their being a defendant in the criminal justice system.

5. Finally, for survivors who have been criminalized and incarcerated, the trauma they experienced before being in Department of Corrections (DOC) custody must be taken into account for the duration of their sentence. DOC could use the data collected about inmate trauma history to inform decisions about where to house an incarcerated person, making an effort to keep people close to their home, rather than scatter survivors of trauma in distant rural jails or prison facilities for the length of their incarceration. Dr. Kondkar explained that Sheriffs feel pressure to keep jail beds full because of the per diem system. As a result, incarcerated people are taken farther from home. Incarcerated mothers are especially concerned about what will happen to their children. Moving them to distant rural jails can compound the trauma already experienced when families are separated.<sup>70</sup>

### **Fiscal impact of recommended methods and legislation**

The high cost of incarceration is well documented in Louisiana and has been addressed by the State and Legislature repeatedly in the past few years. Referencing the Justice Reinvestment Initiative (JRI), the DOC's website states that reducing the prison population by 10% over the next ten years with JRI legislation would save approximately \$262 million for Louisiana.<sup>71</sup> By further reducing the population through relief for incarcerated survivors and preventing a growth in prison

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<sup>69</sup> The Justice in Government Project, FAQs About VOCA, <https://legalaidresourcesdotorg.files.wordpress.com/2021/05/faqs-about-voca.pdf>

<sup>70</sup> Dr. Marcus Kondkar 11/16/21 Task Force mtg 1:50.

<sup>71</sup> Skene, *supra* note 21.



population with crime prevention and undoing the ways interpersonal violence survivors are criminalized, these re-investments can be even greater.

For instance, the current Justice Reinvestment Initiative (JRI) Domestic Violence Flexible Housing Assistance project awarded to the Louisiana Coalition Against Domestic Violence (LCADV) is currently operating in its third year<sup>72</sup>. LCADV utilizes JRI funding to continue a statewide project that is modeled off of successful projects implemented in several other states to prevent homelessness and revictimization among domestic violence survivors. This project addresses this vast unmet need by providing flexible, fast, direct assistance, combined with individualized advocacy, to facilitate survivor access to stable, long-term housing.

LCADV partners with a subset of local domestic violence programs statewide to provide flexible housing assistance to survivors. This housing assistance includes such things as rental and utility assistance, payment of rental and utility arrears, purchase of furniture or appliances for new housing, payment of transportation expenses while survivors engage in job search or work hours to pay for housing, and payment of childcare expenses while survivors engage in job search or work hours. The flexible housing assistance is also partnered with advocacy to help survivors meet goals and be successful in their pursuit of safe, stable housing.

By addressing the conditions that perpetuate harm and crime, Louisiana will not only save money by a reduction in criminal justice system costs, but money will also be saved for individuals struggling to make ends meet in year three of a global pandemic and other sectors of our economy can improve. Becoming or being a crime survivor is expensive and time-consuming. The high costs of bills for physical and mental health treatment, the lost wages for time missed at work, and money spent to find new housing, all negatively impact households and businesses. Louisiana must spend money on the front end to prevent interpersonal violence and sexual assault instead of trying to manage the costs after violence is perpetrated.

---

<sup>72</sup> Louisiana Coalition Against Domestic Violence, <https://lcadv.org/domestic-violence-coalition-secures-landmark-funding-for-domestic-violence-housing-program/>

## **Recommendations regarding the fiscal impact of recommended methods and legislation**

Programming inside a carceral setting cannot be used as a substitute for supporting survivors when they are in their own homes and communities trying to recover from or survive abuse and trauma. In their presentation to the Task Force, Blake Leblanc and Rhett Covington of DOC shared that they do not like to delve too deep into trauma in a prison setting because it can trigger self-harm, and there is a lack of confidentiality. Additionally, Leblanc and Covington noted that “If there were enough resources in the community, we likely wouldn’t have these ladies incarcerated to begin with.”<sup>73</sup> The Task Force recommends that data from the Legislative Auditor on gaps in domestic violence prevention and training for law enforcement be filled. Institutional, expert, and practical knowledge is present within the appointees of the Domestic Violence Prevention Commission. Their recommendations on what is needed to prevent domestic abuse from escalating into greater violence or even homicide by either the person who is abused or the abuser, should be considered and implemented.

Fiscal savings will be seen from providing relief and release for incarcerated survivors. Data from 2015 shows that it costs about \$16,000 a year to house a person in prison in Louisiana.<sup>74</sup> According to The Advocate:

There are currently about 130 women serving life without parole in Louisiana, which is roughly 8% of the female prison population, according to 2020 data from the Sentencing Project. The share of female prisoners serving life without parole is higher in just two states, Massachusetts and Michigan. In 23 states, the number is less than 1%.

The vast majority of Louisiana's female lifers are convicted of murder, according to the Department of Corrections data. In at least 30 cases — about a quarter — the women alleged they were victims of domestic abuse, according to an analysis by The Advocate.

At least 36 female lifers were never accused of committing the crime directly and intentionally. Most were labeled principals, meaning someone else pulled the trigger or

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<sup>73</sup> See Survivor Informed Task Force Meeting October 19, 2020 Recording, starting at 7:30

<sup>74</sup> Vera Institute of Justice, *The Price of Prisons: What Incarceration Costs Taxpayers*, (2012), <https://biotech.law.lsu.edu/Courses/adlaw/2014s/price-of-prisons-louisiana-fact-sheet.pdf>.

struck the fatal blow. Others were convicted under the felony murder statute, which allows prosecutors to obtain a murder conviction without proving intent as long as the death occurred during the commission of another serious felony.<sup>75</sup>

Without knowing the details of every case, it is difficult to make an exact determination on who would be eligible for release under legislation that mirrors the Domestic Violence Survivors Justice Act referenced in the legislation that created this Task Force. However, even releasing just 30 criminalized survivors would save taxpayers nearly half a million dollars a year. A growing body of research shows that housing elderly prisoners is even more costly per year. The savings for releasing women sentenced to life following their abuse would save millions of additional dollars.

In a state where only one in eight victims of crime applies for the Crime Victims Reparations Fund and only 10% of funding to prevent domestic violence comes from state sources, but 0% from the general fund,<sup>76</sup> Louisiana's budgetary priorities must be realigned. Monies spent housing incarcerated IPV survivors who were defending themselves or their children from an abuser could be much better spent toward prevention of violence and promoting public safety.

## Closing

This Task Force spent six months discussing and gathering materials on the research areas outlined by SCR 45. In conclusion, current efforts in place to assist survivors of intimate partner violence and sexual assault is deficient at every level of our criminal legal system and leads to the criminalization of some survivors. The suggested approaches outlined in this report can be utilized by law enforcement, prosecutors, defense attorneys, courts, and prison officials to reduce the effects of trauma for survivors and defendants. Legislative solutions recommended by this Task Force can be implemented to bring justice and healing to the State of Louisiana.

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<sup>75</sup> Skene, *supra* note 21.

<sup>76</sup> "Challenges in Louisiana's Efforts to Address Domestic Violence," Louisiana Legislative Auditor, 2021, [https://app.lla.state.la.us/publicreports.nsf/0/8ee1181936c16c6e862587ad0058c879/\\$file/0002556e.pdf?openelement&.7773098](https://app.lla.state.la.us/publicreports.nsf/0/8ee1181936c16c6e862587ad0058c879/$file/0002556e.pdf?openelement&.7773098)

## Attachments

- SITF Correspondence with Rhett Covington of the Department of Corrections
- SITF Correspondence with Michele Dauzat, the Louisiana DOC PREA Coordinator
- SITF Correspondence with Alicia Murray, a representative of the mental health department at the Louisiana Correctional Institute for Women (LCIW)
- 2020 Louisiana Domestic Violence Prevention Commission Report

**From:** [Katie Hunter-Lowrey](#)  
**To:** [Rhett Covington](#); [Mattes, Katherine M](#); [Marcus Kondkar](#)  
**Cc:** [Blake LeBlanc \(DOC\)](#); [Leslie Chambers](#); [Francis Abbott](#)  
**Subject:** RE: Task Force Presentation  
**Date:** Tuesday, October 19, 2021 10:57:00 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)

---

Looking forward to today's presentations at 12:30! Sending these again so they are accessible for folks:

Agenda: <https://legis.la.gov/archive/2021/4828.pdf>

Zoom:

<https://us02web.zoom.us/j/86980998951?pwd=QVkwOWZlNWmh0Q3gweHU4dUtXS3cxdz09>  
Meeting ID: 869 8099 8951  
Passcode: 521846  
One tap mobile  
+13017158592,,86980998951# US (Washington DC)  
+13126266799,,86980998951# US (Chicago)

Katie Hunter-Lowrey ([she/her, they/them](#))  
Crime Survivor Organizer  
The Promise of Justice Initiative  
1024 Elysian Fields Ave.  
New Orleans, LA 70117  
[khunterlowrey@defendla.org](mailto:khunterlowrey@defendla.org)  
504-535-4912

Follow Louisiana Survivors for Reform on [Twitter](#) & [Facebook](#)



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---

**From:** Rhett Covington <Rhett.Covington@LA.GOV>  
**Sent:** Monday, October 18, 2021 2:28 PM  
**To:** Mattes, Katherine M <kmattes@tulane.edu>; Marcus Kondkar <kondkar@loyno.edu>; Katie Hunter-Lowrey <KHunterLowrey@defendla.org>  
**Cc:** Blake LeBlanc (DOC) <Blake.LeBlanc3@LA.GOV>; Leslie Chambers <Leslie.Chambers@la.gov>; Francis Abbott <Francis.Abbott@LA.GOV>  
**Subject:** RE: Task Force Presentation

Yes, it does. Thank you.



**RHETT COVINGTON**  
Assistant Secretary  
Office of Reentry and Education Services  
Department of Public Safety & Corrections

O : (225) 342-1231  
C : (225) 456-6815  
F : (225) 342-3863

[doc.louisiana.gov/returnforgood](http://doc.louisiana.gov/returnforgood)

---

**From:** Mattes, Katherine M <[kmattes@tulane.edu](mailto:kmattes@tulane.edu)>  
**Sent:** Monday, October 18, 2021 2:27 PM  
**To:** Rhett Covington <[Rhett.Covington@LA.GOV](mailto:Rhett.Covington@LA.GOV)>; Marcus Kondkar <[kondkar@loyno.edu](mailto:kondkar@loyno.edu)>; Katie Hunter-Lowrey <[KHunterLowrey@defendla.org](mailto:KHunterLowrey@defendla.org)>  
**Cc:** Blake LeBlanc (DOC) <[Blake.LeBlanc3@LA.GOV](mailto:Blake.LeBlanc3@LA.GOV)>; Leslie Chambers <[Leslie.Chambers@la.gov](mailto:Leslie.Chambers@la.gov)>; Francis Abbott <[Francis.Abbott@LA.GOV](mailto:Francis.Abbott@LA.GOV)>  
**Subject:** RE: Task Force Presentation

**EXTERNAL EMAIL:** Please do not click on links or attachments unless you know the content is safe.

Rhett, Blake and Marcus,

Given that Marcus is going to give a broad overview, and Rhett, with Blake, will be focused more narrowly, I think it makes sense to have Marcus start, and then Rhett and Blake follow.

Does that make sense to the three of you?

And thank you for giving us your time and expertise.

*Katherine Mattes*

Senior Professor of the Practice  
Faculty Chair of Clinics  
Director, Criminal Justice Clinic  
Co-director, Women's Prison Project  
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**From:** Rhett Covington <[Rhett.Covington@LA.GOV](mailto:Rhett.Covington@LA.GOV)>

**Sent:** Monday, October 18, 2021 6:51 AM

**To:** Marcus Kondkar <[kondkar@loyno.edu](mailto:kondkar@loyno.edu)>; Katie Hunter-Lowrey <[KHunterLowrey@defendla.org](mailto:KHunterLowrey@defendla.org)>

**Cc:** Mattes, Katherine M <[kmattes@tulane.edu](mailto:kmattes@tulane.edu)>; Blake LeBlanc (DOC) <[Blake.LeBlanc3@LA.GOV](mailto:Blake.LeBlanc3@LA.GOV)>; Leslie Chambers <[Leslie.Chambers@la.gov](mailto:Leslie.Chambers@la.gov)>; Francis Abbott <[Francis.Abbott@LA.GOV](mailto:Francis.Abbott@LA.GOV)>

**Subject:** RE: Task Force Presentation

External Sender. Be aware of links, attachments and requests.

Thanks, Marcus. That will help frame the limited input Blake and I can contribute. Our presentation will focus more on the challenges of identifying trauma based on how our population enters DOC custody, the challenges of treating it in an incarcerated setting in Louisiana, the chronic staffing issues and lack of resources we have to truly address trauma, as well as what we resources we currently have available. The unfortunate reality is, DOC is in the same situation with regard to resources as is the community at large. If there were resources available to meet the need in the community, we likely wouldn't have as much need for them in DOC.

Are you familiar with the interactive DOC dashboard <https://doc.louisiana.gov/demographic-dashboard/> ? It may help with some of the demographic data, or we can include that as part of our presentation if it's helpful.



**RHETT COVINGTON**

Assistant Secretary  
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<http://doc.louisiana.gov/returnforgood>

---

**From:** Marcus Kondkar <[kondkar@loyno.edu](mailto:kondkar@loyno.edu)>

**Sent:** Sunday, October 17, 2021 11:29 AM

**To:** Katie Hunter-Lowrey <[KHunterLowrey@defendla.org](mailto:KHunterLowrey@defendla.org)>

**Cc:** Rhett Covington <[Rhett.Covington@LA.GOV](mailto:Rhett.Covington@LA.GOV)>; Mattes, Katherine M <[kmattes@tulane.edu](mailto:kmattes@tulane.edu)>;  
Blake LeBlanc (DOC) <[Blake.LeBlanc3@LA.GOV](mailto:Blake.LeBlanc3@LA.GOV)>; Leslie Chambers <[Leslie.Chambers@la.gov](mailto:Leslie.Chambers@la.gov)>;  
Francis Abbott <[Francis.Abbott@LA.GOV](mailto:Francis.Abbott@LA.GOV)>

**Subject:** Re: Task Force Presentation

**EXTERNAL EMAIL:** Please do not click on links or attachments unless you know the content is safe.

Hi all,

Wanted to run this by you in preparation for Tuesday. My understanding from Katherine is that there are varying degrees of expertise on the taskforce with respect to these issues. I can cover the following things (below) and hand it over to Rhett and Blake, who I expect are more knowledgeable about much of this than I am, and can probably answer questions about current DOC data collection practices.

- National incarceration trends for women
- Growth, racial disparities, over time
- Louisiana in national context
- Demographics of women incarcerated in Louisiana (compared to men)
- Research on prevalence of abuse among incarcerated women
- Research on direct and indirect pathways to prison for women
- Case study from my LCIW life history project
- Data collection challenges in Louisiana (and opportunities)

Open to changes or other suggestions.

Hope you're enjoying this beautiful Sunday.

Marcus



On Fri, Oct 15, 2021 at 9:22 AM Katie Hunter-Lowrey <[KHunterLowrey@defendla.org](mailto:KHunterLowrey@defendla.org)> wrote:

Looking forward to these presentations and the timing sounds good to me. Any info you can offer and suggestions on how we could help get closer to answering these questions is much appreciated! And correct, the task force is looking at trauma as an event that often leads to incarceration, but the analysis on incarceration itself as traumatization and how that environment can further harm survivors is a very welcome and necessary one. Take care y'all, have a great weekend,

Get [Outlook for iOS](#)

---

**From:** Rhett Covington <[Rhett.Covington@LA.GOV](mailto:Rhett.Covington@LA.GOV)>

**Sent:** Friday, October 15, 2021 8:02:49 AM

**To:** Mattes, Katherine M <[kmattes@tulane.edu](mailto:kmattes@tulane.edu)>; Marcus Kondkar <[kondkar@loyno.edu](mailto:kondkar@loyno.edu)>; Blake LeBlanc (DOC) <[Blake.LeBlanc3@LA.GOV](mailto:Blake.LeBlanc3@LA.GOV)>

**Cc:** Leslie Chambers <[Leslie.Chambers@la.gov](mailto:Leslie.Chambers@la.gov)>; Katie Hunter-Lowrey <[KHunterLowrey@defendla.org](mailto:KHunterLowrey@defendla.org)>; Francis Abbott <[Francis.Abbott@LA.GOV](mailto:Francis.Abbott@LA.GOV)>

**Subject:** RE: Task Force Presentation

Good morning,

We will do our best. We can only speak to adults sentenced to DOC and we are not where we would like to be in answer to these questions. To clarify, incarceration itself is a trauma-inducing event, so I assume that we are talking about pre-incarceration trauma.



**RHETT COVINGTON**

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**From:** Mattes, Katherine M <[kmattes@tulane.edu](mailto:kmattes@tulane.edu)>  
**Sent:** Thursday, October 14, 2021 4:39 PM  
**To:** Rhett Covington <[Rhett.Covington@LA.GOV](mailto:Rhett.Covington@LA.GOV)>; Marcus Kondkar <[kondkar@loyno.edu](mailto:kondkar@loyno.edu)>; Blake LeBlanc (DOC) <[Blake.LeBlanc3@LA.GOV](mailto:Blake.LeBlanc3@LA.GOV)>  
**Cc:** Leslie Chambers <[Leslie.Chambers@la.gov](mailto:Leslie.Chambers@la.gov)>; Katie Hunter-Lowrey <[KHunterLowrey@defendla.org](mailto:KHunterLowrey@defendla.org)>  
**Subject:** Task Force Presentation

**EXTERNAL EMAIL:** Please do not click on links or attachments unless you know the content is safe.

Dear Rhett, Marcus, and Blake:

Marcus, I've added Blake LeBlanc, who is the Mental Health Director with DOC, to this email chain because Blake will be presenting with Rhett.

Thank you all so much for agreeing to present next Tuesday to the Survivor Informed Task Force. Our meeting is scheduled to start at 12:30 and I think that we can allot an hour and 15 minutes (perhaps a bit longer) to your presentations.

I have attached to this email, the full resolution that enacted the Task Force. The six specific Task Force mandates identified in SCR 45 are:

- (1) Analyzing the current scope of incarcerated trauma and abuse survivors in prisons, jails, and juvenile detention centers in Louisiana
- (2) Analyzing the current procedures utilized by law enforcement, district attorneys, public defenders, and criminal court judges to screen for trauma and abuse.
- (3) Recommending legislation relative to capturing data on trauma and abuse among persons in the custody of the Department of Corrections in order to facilitate the implementation of policies that provide alternatives to incarceration for criminalized survivors of domestic and intimate partner violence, childhood trauma, and sexual and physical abuse.

(4) Recommending legislation to provide pathways to relief for victims who acted in self-defense against their abusers, who acted in defense of others, who were coerced into committing a crime by an abuser, or who were secondary survivors of domestic violence, and are now incarcerated.

(5) Recommending legislation to build and sustain a more trauma-informed criminal legal system.

(6) Acknowledging and documenting any fiscal impact, including savings or costs, associated with the enactment of recommended legislation.

We are hoping that the three of you will be able to provide information to the Task Force members that will help us answer #1, #2 (vis a vis DOC practices) and #3.

I know that Marcus will provide us with an introduction on how trauma and intimate partner violence create pathways to incarceration and the scope of the problem of incarcerated survivors on a national level. But I thought it would be useful if you three were able to touch base with one another to co-ordinate some of the other data and information that you are able to share with the Task Force.

Again thank you . And please let me know if you have any questions. Thank you.

The Zoom link for Tuesdays meeting is:

<https://us02web.zoom.us/j/86980998951?pwd=QVkwOWZlNWmhOQ3gweHU4dUtXS3cxdz09>

Meeting ID: 869 8099 8951

Passcode: 521846

*Katherine Mattes*

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--

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<https://marcuskondkar.youcanbook.me>

**From:** [Rachel Mayeux](#)  
**To:** [Katie Hunter-Lowrey](#)  
**Subject:** Fwd: Survivor Task Force  
**Date:** Friday, October 8, 2021 12:55:59 PM

---

This comes from the PREA Coordinator of the La. DOC. The other answers I forwarded to you were submitted by the LCIW mental health dept.

----- Forwarded message -----

**From:** Michele Dautat <[Michele.Dautat@la.gov](mailto:Michele.Dautat@la.gov)>  
**Date:** Thu, Oct 7, 2021 at 10:31 AM  
**Subject:** RE: Survivor Task Force  
**To:** Rachel Mayeux <[rachel@lafasa.org](mailto:rachel@lafasa.org)>

Hi Rachel! I apologize but I will not be able to provide percentages or statistics regarding this request. However, I have attempted to answer the following to the best of my ability.

1. In the LA DOC, what questions are on the PREA intake? **Our screening tool includes each of the bullet points in PREA standard 115.41**
2. Part of the PREA screening process is assessing who has been sexually victimized prior. What percentage in your best estimate, identify as survivors? **Difficult to determine**
3. Does LA DOC have their own pre-existing trauma screening that you ask in order to assess the needs of your population? **Our PREA screening serves as our questionnaire for pre existing sexual trauma screening in addition to the battery of psychological tests completed at the Reception unit.** What percentage of your population in your best estimate, identifies as having experienced sexual abuse, domestic violence, dating violence, childhood trauma, or physical abuse prior to their entry in prison? **Difficult to determine**
4. Is this data kept in resident's files or in a large database, or other? **The data is kept in a confidential offender record and electronically.** How is the data stored? **Information is stored electronically and in offender record with limited viewing privileges.** Are there any formal or informal logs linking trauma and incarceration that you have at your facility? **We do not currently have any logs linking trauma and incarceration.**

Hope this helps. Have a good day.

Michele Dauzat, LCSW, BACS

DWCC Deputy Warden

LA DPS&C Treatment Projects Coordinator

LA DPS&C Prison Rape Elimination Act Coordinator

DOJ Certified PREA Auditor/Adult Prison/Jails

Phone# 318-927-0409

Fax # 318-927-0433

---

**From:** Rachel Mayeux <[rachel@lafasa.org](mailto:rachel@lafasa.org)>  
**Sent:** Thursday, October 7, 2021 10:13 AM  
**To:** Michele Dauzat <[Michele.Dauzat@LA.GOV](mailto:Michele.Dauzat@LA.GOV)>  
**Subject:** Survivor Task Force

**EXTERNAL EMAIL:** Please do not click on links or attachments unless you know the content is safe.

Good morning!

I'm participating on the Louisiana Survivor Task force, and we have a meeting on October 19th. I'm reaching out because I have some questions regarding the PREA intake and your population. The task force would like to examine the link between trauma (DV, childhood trauma, sexual, physical abuse) and incarceration, and get numbers reflecting this, so that ultimately legislation will be survivor-centered. I was wondering if you could offer your perspectives on the following questions:

1. In the LA DOC, what questions are on the PREA intake?
2. Part of the PREA screening process is assessing who has been sexually victimized prior. What percentage in your best estimate, identify as survivors?

3. Does LA DOC have their own pre-existing trauma screening that you ask in order to assess the needs of your population? What percentage of your population in your best estimate, identifies as having experienced sexual abuse, domestic violence, dating violence, childhood trauma, or physical abuse prior to their entry in prison?

4. Is this data kept in resident's files or in a large database, or other? How is the data stored? Are there any formal or informal logs linking trauma and incarceration that you have at your facility?

Thanks for your time! If you'd rather call to answer these, or to discuss your own observations please reach out at 225-367-5483. I'd appreciate any insight that you're willing to provide, especially anything that can provide numbers regarding percentages of inmates who were victims of childhood trauma, DV/IPV, sexual/physical abuse.

Thanks!

Rachel

--

**Free Britney.**

**Rachel Mayeux**

PREA Liaison

Louisiana Foundation Against Sexual Assault (LaFASA)

[2133 Silverside Drive, Suite A](#)

[Baton Rouge, LA 70808](#)

Direct: 225.754.4908

Phone: 225.372.8995

Fax: [225.341.1415](#)



--

**Free Britney.**

**Rachel Mayeux**

PREA Liaison

Louisiana Foundation Against Sexual Assault (LaFASA)

2133 Silverside Drive, Suite A

Baton Rouge, LA 70808

Direct: 225.754.4908

Phone: 225.372.8995

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**From:** [Rachel Mayeux](#)  
**To:** [Katie Hunter-Lowrey](#)  
**Subject:** Fwd: FW: Louisiana Survivor Task Force questions  
**Date:** Friday, October 8, 2021 12:54:00 PM

---

----- Forwarded message -----

**From:** Alicia Murray (DOC) <[Alicia.Murray2@la.gov](mailto:Alicia.Murray2@la.gov)>  
**Date:** Fri, Oct 8, 2021 at 12:50 PM  
**Subject:** FW: Louisiana Survivor Task Force questions  
**To:** Rachel Mayeux <[rachel@lafasa.org](mailto:rachel@lafasa.org)>

Please see below.

---

**From:** Rachel Mayeux [<mailto:rachel@lafasa.org>]  
**Sent:** Thursday, October 7, 2021 10:00 AM  
**To:** Brettneka Cyprain <[Brettneka.Cyprain2@la.gov](mailto:Brettneka.Cyprain2@la.gov)>; Emelda Collins (DOC) <[Emelda.Collins3@LA.GOV](mailto:Emelda.Collins3@LA.GOV)>; Lashawnda Burks <[Lashawnda.Burks@la.gov](mailto:Lashawnda.Burks@la.gov)>  
**Subject:** Louisiana Survivor Task Force questions

**EXTERNAL EMAIL:** Please do not click on links or attachments unless you know the content is safe.

Good morning!

I'm participating on the Louisiana Survivor Task force, and we have a meeting on October 19th. I'm reaching out because I have some questions regarding the PREA intake and your population. The task force would like to examine the link between trauma (DV, childhood trauma, sexual, physical abuse) and incarceration, and get numbers reflecting this, so that ultimately legislation will be survivor centered. I was wondering if you could offer your perspectives on the following questions:

1. At LCIW, what questions are on the PREA intake? Are you a victim of prison rape or sexual assault? Is there a physical disability or developmental disability? Is there a mental disability? Is there a history of past sexual abuse? Is this the first incarceration? Are you, or do others perceive you to be lesbian, gay, bisexual, transgender, intersex or gender non-

conforming? Do you consider yourself vulnerable to sexual assault? Are you under age 18 (youthful age)? Are you age 65 or older (elderly)? Small/slight physical stature? Detained solely for civil immigration purposes? Has an exclusively non-violent criminal history? Has a previous conviction of a sex offense against an adult or child?

2. Part of the PREA screening process is assessing who has been sexually victimized prior. What percentage in your best estimate, identify as survivors? [Approximately 75 percent](#)

3. Does LCIW have their own pre-existing trauma screening that you ask in order to assess the needs of your population? What percentage of your population in your best estimate, identifies as having experienced sexual abuse, domestic violence, dating violence, childhood trauma, or physical abuse prior to their entry in LCIW? [At intake the offenders are asked whether they have been sexually abused and by whom. They are also asked about being in an abusive or battering relationship \(past or current\). Approximately 75 percent of the population has experienced some form of abuse prior to their entry into LCIW.](#)

4. Is this data kept in resident's files or in a large database, or other? How is the data stored? Are there any formal or informal logs linking trauma and incarceration that you have at your facility? [The hard copy is kept in the offenders' file and the information is inputted into a DOC database. We don't have any logs linking trauma and incarceration.](#)

Thanks for your time! If you'd rather call to answer these, please reach out at 225-367-5483.

Thanks!

Rachel

--

**Free Britney.**

**Rachel Mayeux**

PREA Liaison

Louisiana Foundation Against Sexual Assault (LaFASA)

[2133 Silverside Drive, Suite A](#)

[Baton Rouge, LA 70808](#)

Direct: 225.754.4908

Phone: 225.372.8995

Fax: [225.341.1415](#)



--

**Free Britney.**

**Rachel Mayeux**

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**Louisiana  
Domestic  
Violence  
Prevention  
Commission**

**2020**  
***Annual Report***

# Louisiana Domestic Violence Prevention Commission

## 2020 Annual Report

Pursuant to LA R.S. 46:2145, the Louisiana Domestic Violence Prevention Commission provides this report of its work and recommendations for 2020. The Commission met on three occasions in 2020, with one meeting being canceled due to the COVID-19 pandemic. Four subcommittees – Victimization Data, Innovative Practices, Law Implementation and Training, and Legal Issues - were established to utilize the expertise of commission members and community members to look further into specific priority areas. This report is formatted to provide a concise overview and executive summary of the Commission’s efforts, focus areas, and recommendations.

### Commission Responsibilities

As specified in LA R.S. 46:2145, the Louisiana Domestic Violence Prevention Commission has the following responsibilities:

1. Assist local and state leaders in developing and coordinating domestic violence programs.
2. Conduct a continuing comprehensive review of all existing public and private domestic violence programs to identify gaps in prevention and intervention services and to increase coordination among public and private programs to strengthen prevention and intervention services.
3. Make recommendations with respect to domestic violence prevention and intervention.
4. Develop a state needs assessment and a comprehensive and integrated service delivery approach that meets the needs of all domestic violence victims.
5. Establish a method to transition domestic violence service providers toward evidence-based national best practices focusing on outreach and prevention.
6. Develop a plan that ensures state laws on domestic violence are properly implemented and provides training to law enforcement and the judiciary.
7. Develop a framework to collect and integrate data and measure program outcomes.



## Louisiana Domestic Violence Prevention Commission Membership

**Mariah Wineski, Chair**  
Louisiana Coalition Against Domestic Violence

**Ramona Harris**  
Louisiana Supreme Court

**Sunny Funk, Secretary**  
Louisiana District Attorneys Association

**Twahna Harris**  
The Butterfly Society

**Hon. Rick Arceneaux**  
Louisiana Clerks of Court Association

**Jane Herwehe**  
Louisiana Department of Health

**Wanjennia Atkins**  
Office of the Louisiana Attorney General

**Lila Tritico Hogan**  
Governor's Appointee

**Lindsay Blouin**  
Louisiana Association of Criminal Defense  
Lawyers

**Hon. Laurie Hulin**  
Louisiana District Judges Association

**Rutha Chatwood**  
Louisiana Commission on Law Enforcement

**Mary Claire Landry**  
New Orleans Family Justice Center

**Tommy Clark, Jr.**  
Louisiana Association of Chiefs of Police

**Kimberly Resetar**  
House Committee on the Administration of  
Criminal Justice

**Representative Paula Davis**  
Louisiana Legislative Women's Caucus

**Senator Gary Smith**  
Senate Committee on Judiciary B

**Shannon Dirmann**  
Louisiana Sheriff's Association

**Hon. Lala Sylvester**  
Louisiana District Judges Association

**Amy Dupuy**  
Louisiana Department of Children and Family  
Services

# Executive Summary of Recommendations

In 2020, the Louisiana Domestic Violence Prevention Commission conducted extensive research and coordinated the implementation of various projects, the details of which are summarized throughout this report. A compilation of the Commission's recommendations is as follows:

## RECOMMENDATION ONE

The Commission recommends that work proceed on the creation of a Statewide Domestic Violence Fatality Review Program, including the passage of enabling legislation. The statewide Domestic Violence Fatality Review Program should collaborate with existing local fatality review teams when necessary. Coroners and law enforcement agencies should be encouraged to participate in the National Violent Death Reporting System (NVDRS) by providing full investigative reports on domestic violence homicides for NVDRS inclusion. These investigative findings provide the review team with critical information on contributing factors leading to the fatality and increase the team's ability to make recommendations for prevention.

## RECOMMENDATION TWO

Existing federal, state, local, and private funding sources for domestic violence services should encourage flexibility by reducing any unnecessary bureaucratic requirements that impede the ability of funded organizations to meet survivors' needs. In addition, new resources should be allocated toward programs that are designed specifically for flexible, low-barrier, and holistic assistance for survivors.

## RECOMMENDATION THREE

Collaboration should be increased between health care providers and domestic violence advocates. When possible, programs should work to develop co-location of medical services with advocacy services. In cases where that is not possible, advocacy organizations and healthcare providers should collaborate to assist with follow up medical services for domestic violence injuries. Further, the costs for strangulation assessments in a medical or advocacy setting should not be passed on to survivors or providers completing the assessments, but rather, be paid by insurers and/or victim compensation funds.

## RECOMMENDATION FOUR

Louisiana should continue to increase domestic violence program staff capacity for assessment and data collection for the presence of strangulation. Outside of domestic violence programs, screening for strangulation should be expanded among multiple points of access for women i.e., Women, Infants and Children's (WIC) program, and health care providers.

## RECOMMENDATION FIVE

Resources should be dedicated to continued assessment of domestic violence in the general population via the Behavioral Risk Factor Surveillance System and used to elevate public awareness of the long-term impacts of traumatic brain injury that can result from strangulation and the need for medical intervention for those survivors reporting adverse clinical symptoms related to strangulation.

## RECOMMENDATION SIX

The Commission recommends a continued partnership among domestic violence experts, advocates, and the Louisiana State Law Institute to move toward the final adoption of consistent and comprehensive definitions of domestic abuse in Louisiana law.

# Subcommittee Reports

## Victimization Data Subcommittee

The Victimization Data Subcommittee was organized to address purpose area 7 of the Domestic Violence Prevention Commission: *develop a framework to collect and integrate data pertaining to domestic violence victimization and measure program impact*. The subcommittee's work in 2020 also addressed purpose area 1: *assist local and state leaders in developing and coordinating domestic violence programs*, and purpose area 5: *establish a method to transition domestic violence service providers toward evidence-based national best practices focusing on outreach and prevention*.

The subcommittee is comprised of advocates, public health professionals, epidemiologists, and researchers. Organizations represented include the Louisiana Coalition Against Domestic Violence, the New Orleans Family Justice Center, the Office of Public Health – Bureau of Family Health, the City of New Orleans Health Department – Domestic Violence & Sexual Assault Program, and Tulane University School of Public Health. This representation ensures the subcommittee's work is closely aligned with nationally-funded initiatives such as:

- ▶ Centers for Disease Control and Prevention: Core State Violence and Injury Prevention Program ([SVIPP](#)), the National Violent Death Reporting System ([NVDRS](#)) surveillance project, the Rape Prevention and Education Program for the prevention of sexual violence, and Enhancing Reviews and Surveillance to Eliminate Maternal Mortality ([ERASE MM](#)).
- ▶ National Institutes of Health (NIH): Pregnancy-associated Mortality and Impact of State-level Policy on Maternal Mortality, two large 5-year research grants aiming to identify ways to reduce maternal mortality and maternal homicide and Place Matters: adaptable solutions to violence at the community



level is a community-level intervention for primary prevention of youth and domestic violence. This year, Tulane received [supplemental research funds](#) to expand the scope of this work to include an evaluation of state gun laws and their impact on rates of homicide of pregnant and postpartum women. This was among the first group of projects selected to receive federal funds after Congress lifted a 25-year ban on firearm research.

- ▶ Department of Justice Orleans Parish specific collaborative poly-victimization study between the New Orleans Family Justice Center and the Institute of Women and Ethnic Studies on the prevalence and impact of multiple types of victimization.
- ▶ Family Violence Prevention and Services Act grants, which are the federal funds for domestic violence services that flow through the Department of Children and Family Services. These funds provide the framework for data on service statistics, hotline calls, and number of victims served by domestic violence programs in Louisiana.

In 2020, the subcommittee completed several projects utilizing data collected from domestic violence programs, vital statistics, hospitalization and emergency department data, police department and 911 call data, protective order registry data, as well as national and local surveillance systems, i.e., NVDRS, Pregnancy Risk Assessment Monitoring System (PRAMS), Behavioral Risk Factor Surveillance System (BRFSS), and National Violent Injury Statistics System (NVISS). Subcommittee members analyzed and translated data and identified programmatic action items. Two intimate partner violence (IPV) indicators - parish-level protective orders and state ranking of women murdered by men - have been added to the state's Core SVIPP violence dashboard.

The subcommittee analyzed the 2019 statewide Louisiana Behavioral Risk Factor Surveillance System (BRFSS) annual survey questions on assessment of coercive control, experiences of physical harm (including strangulation) and sexual violence. Data were presented to the Domestic Violence Prevention Commission and are available for additional interested parties. The team has secured approval and funding for continuation of these survey questions in 2020 and 2021 as well as the addition of one question related to the presence and storage of firearms in the home, a known risk for future fatality in IPV circumstances. The BRFSS will provide three years of IPV data on the general adult population in Louisiana. The 2020 BRFSS data will be available for analysis in the fall of 2021.

An additional project completed was the continuation of training with domestic violence service providers on assessing and tracking strangulation. A total of 15 shelters were trained and nine programs received virtual followup training on the collection of strangulation data in the software system (EmpowerDB) used by the providers. A current project to analyze the providers' strangulation data is underway.

The subcommittee worked to re-establish a statewide Domestic Violence Fatality Review Program. This work will utilize surveillance data from Louisiana's National Violent Death Reporting System (inclusive of death certificates, law enforcement and coroner investigative reports) as well as domestic violence service provider data. The City of New Orleans Health Department formed its local Domestic Violence Fatality Review and has begun planning with the National Domestic Violence Fatality Review Initiative. The

subcommittee also researched enabling legislation for creation of a statewide Domestic Violence Fatality Review. An absence of legislation was found and a legal intern completed an exhaustive review of others states' legislation, state administrative rules or executive orders. This information was used by the committee to draft legislation to establish a protected statewide Domestic Violence Fatality Review that is planned for filing for the 2021 Louisiana Legislative session.

The City of New Orleans Domestic Violence & Sexual Assault Program completed training on protocols for strangulation assessments in response to domestic violence calls for emergency medical technicians. Currently, the team is working on a process for capturing these assessments in the emergency response data system. Options for reimbursement approaches to ensure victims do not receive a bill from Emergency Medical Services are still being explored. The New Orleans Family Justice Center has been successful in submitting strangulation assessments completed by Center medical staff as part of a forensic medical exam for reimbursement from the Crime Victims Reparations fund. The subcommittee is monitoring the progress of this project as a promising practice to possibly recommend statewide.

The Journal of Women's Health published an article authored by Dr. Wallace of Tulane and a few subcommittee members – *Violence as a Direct Cause of and Indirect Contributor to Maternal Death*. The journal received an editorial response, *Preventing Violence-Related Maternal Death: A Call to Action*. Dr. Wallace and additional subcommittee members authored a research publication in [JAMA Pediatrics](#) that found homicide to be among the leading causes of death among women who are pregnant or have recently given birth in Louisiana. This work received considerable media attention from both [national](#) and [local](#) outlets, and was recently cited in the US Surgeon General's [Call to Action to Improve Maternal Health](#) released December 3, 2020.

Subcommittee members continue to work closely with health care providers on the importance of screening for domestic violence, strangulation assessment, forensic medical exams, and partnership with survivor advocates in medical settings. Members from the subcommittee have led breakout sessions at national leadership meetings and worked closely with leadership of the New Orleans Level I Trauma Center. Strangulation data have been used to engage healthcare professionals in the need for training and collaborative partnerships with domestic violence advocates. The results of these trainings are apparent as the advocates have noted an increase in advocates being called to the Trauma Center to meet with survivors. Variability exists in the capacity of domestic violence providers as well as health care providers for assessment and the delivery of needed services. The subcommittee members recognize this variability and will continue to build capacity for improved relationships and communication between Emergency Department staff and advocates, an essential element to ensuring survivors' needs are met. Given the connection between experiences of strangulation and the likelihood of future fatality and the foundational work the subcommittee has completed in 2019-2020, the overarching recommendations resulting from the work of the subcommittee are moving data to action for strangulation and fatality prevention.

The subcommittee makes the following recommendations:

- ▶ Louisiana should continue to increase capacity for better awareness, assessment and data collection for the presence of strangulation among domestic violence program staff. This work started in 2018 and will be continued with more intensive outreach and training to providers. Outside of domestic violence programs, screening for strangulation should be expanded among multiple points of access for women i.e., Women, Infants and Children's (WIC) program, and health care providers.
- ▶ Following recommendations emerging from a study conducted by Amnesty International, the subcommittee recommends continued work toward the creation of the Domestic Violence Fatality Review Program. Coroners and law enforcement agencies should be encouraged to participate in the CDC NVDRS by providing full investigative reports on domestic violence homicides for NVDRS inclusion. Plans are underway for education of coroners and law enforcement around recent improvements in public records laws to further protect domestic violence information that may result from a review process. A comprehensive, multidisciplinary Domestic Violence Fatality Review using de-identified information will provide recommendations for systems level improvements to prevent future fatalities.
- ▶ To build a comprehensive and integrated approach to services, the subcommittee recommends that collaboration be increased between health care providers and advocates. When feasible, programs should work to develop co-location of medical services with advocacy services, or at minimum, develop working collaborations with health care providers to assist with follow up medical services for domestic violence injuries, especially non-fatal strangulation. The subcommittee recommends that costs for strangulation assessments and forensic medical exams should be covered by insurers or victim services/reparations/compensations funds and not be passed on to survivors or providers completing the assessments.
- ▶ Finally, the subcommittee recommends resources be dedicated to continued assessment of domestic violence in the general population via the Behavioral Risk Factor Surveillance System and used to elevate public awareness of the long-term impacts of traumatic brain injury that can result from strangulation and the need for medical intervention for those survivors reporting adverse clinical symptoms related to strangulation.

## Legal Issues Subcommittee

The Legal Issues Subcommittee's work in 2020 addressed purpose area 3 of the Domestic Violence Prevention Commission: *Make recommendations with respect to domestic violence prevention and intervention*. The Legal Issues Subcommittee continued its partnership with the Louisiana State Law Institute to review existing laws affecting domestic violence, particularly in the civil legal area. Members of the Marriage-Persons Committee of the Law Institute, with input and participation from advocates against domestic violence, addressed the multiple definitions of domestic violence and domestic abuse in the civil code.

An omnibus bill was compiled and submitted to the Legislature in the 2020 Regular Legislative Session. It contained a uniform definition of domestic abuse with particular consideration of non-physical abuse

which had not been addressed in prior law. The definition was referenced in multiple sections of the Civil Code, Children’s Code, and Revised Statutes. Over the years, dozens of definitions of domestic abuse or domestic violence have evolved. The Committee wanted to have one definition that was consistent throughout the civil laws.

However, several questions arose about the custody provisions in the proposed legislation. Those concerns, plus the lack of time in the Legislature due to COVID-19, meant the legislation was not considered in the Regular Session. The Marriage-Persons Committee met again on December 4, 2020, and addressed the concerns raised by people concerned about domestic violence. Most of the changes recommended by advocates were adopted. Others were not. The language for the changes will be presented to the Committee in January with an eye toward taking it to the Law Institute Council in time to be presented to the Legislature this Spring. Members of the Commission are invited and attend these Law Institute Council and Committee meetings.

In 2020, the Legal Issues Subcommittee also continued its commitment to monitor bills relevant to domestic violence prevention which were introduced during the Legislative Session. The subcommittee compiled and disseminated a digest of the bills which became law. Despite the legislative session being cut short due to the COVID-19 pandemic, several domestic violence related bills passed. Highlights include bills classifying certain domestic abuse crimes as crimes of violence, prohibiting nonconsensual pelvic exams in a medical setting, prohibiting solitary confinement of pregnant and postpartum inmates, designating any felony crime of violence against a dating partner a crime of domestic abuse, expanding the definitions of “family member” and “household member” for criminal code purposes, expanding the types of prior offenses the court is required to consider in determining conditions of release, and requiring criminal protective orders to remain in effect through the adjudication of the crime.

## Innovative Practices Working Group

The Innovative Practices Working Group was established in 2020 with the purpose of researching and promoting the implementation of promising practices in domestic violence prevention and response. This work is in furtherance of purpose areas *1: assist local and state leaders in developing and coordinating domestic violence programs, 3: make recommendations with respect to domestic violence prevention and intervention; and 5: establish a method to transition domestic violence service providers toward evidence-based national best practices focusing on outreach and prevention.*

The working group researched and presented information on two promising practices in domestic violence prevention: flexible funding and onsite medical services.

Flexible funding refers to the process of providing financial support to survivors of domestic violence to address whatever barrier exists between the survivor and long-term safety. This approach was developed formally as a mechanism for securing housing stability, because of the wealth of research connecting safe housing to a reduction in future violence victimization. While the concept of giving survivors financial resources is not new, creating a cohesive service approach pairing brief advocacy with flexible financial assistance is a relatively new approach in the United States. In a Flexible Funding

approach, financial support can be provided in a number of ways depending on the survivor’s needs and the parameters of the funding source.

In 2020, Louisiana made tremendous progress by embracing a flexible funding approach in a new funding source for domestic violence services. The Louisiana Commission on Law Enforcement granted \$1,400,000 to the Louisiana Coalition Against Domestic Violence over two funding cycles for the creation of a statewide Domestic Violence Flexible Housing Assistance Program. This funding, made available through the state’s Justice Reinvestment Initiative, allows Louisiana service providers to use flexible funding to meet the holistic housing needs of domestic violence survivors.

The second promising practice is that of onsite medical services at domestic violence advocacy programs. In Louisiana, this practice is currently in place at the New Orleans Family Justice Center. This program was successfully implemented in an effort to respond to the large number of medical issues facing domestic violence survivors that frequently go unaddressed. The approach removes the requirement for survivors to seek medical care at several different providers and increases the likelihood that necessary medical care will be obtained.

Following a thorough examination of these two promising approaches, the Innovative Practices Working Group makes the following recommendations:

- ▶ Existing funding sources for domestic violence services should encourage flexibility reducing any unnecessary bureaucratic requirements that impede the ability of funded organizations to meet survivors’ needs. In addition, new funding streams should become available, from federal, state, and private sources, that are designed specifically for flexible, low-barrier, and holistic assistance for survivors.
- ▶ Collaboration should be increased between health care providers and domestic violence advocates. While not always feasible, programs should work to develop co-location of medical services with advocacy services. In cases where that is not possible, advocacy organizations and health care providers should collaborate to assist with follow up medical services for domestic violence injuries.

## Law Implementation and Training Subcommittee

The Law Implementation and Training Subcommittee was formed in 2020, to merge and expand upon the work of two of the Commission’s previous subcommittees, the Gwen’s Law and Bond Issues Subcommittee and the Firearm Transfer Working Group. The Law Implementation and Training Subcommittee was established to address purpose areas 1: *assist local and state leaders in developing and coordinating domestic violence programs* and 6: *develop a plan that ensures state laws on domestic violence are properly implemented and provides training to law enforcement and the judiciary*.

This subcommittee focused on planning and providing in-person training events to jurisdictions statewide regarding issues relating to firearm transfer procedures and Gwen’s Law implementation. With the onset of the COVID-19 pandemic, training efforts of this subcommittee were temporarily delayed. However, subcommittee members did produce a web-based training on evidence-based

prosecution and began planning for an in-depth law enforcement training for domestic violence specialization within law enforcement.

Additional topic areas addressed by subcommittee members in 2020 include issues of protective order service in the aftermath of a disaster, and the issue of charges being pled down at the district level in a way that prevents appropriate federal court referrals. Subcommittee members expect to continue to look into these issues in the coming year.