HOMICIDE

PRESENTED BY:
SANDI MATHESON
HOMICIDE

OBJECTIVES

Upon completion of this module the participant will be able to:

- Understand the scope and impact of homicide and the unique elements that negatively impact the survivors.
- Understand the impact of homicide on the survivors and their response to it.
- Identify common problems faced by survivors
- Identify victim service provider support and services for survivors.
HOMICIDE
2010 MAINE/NEW HAMPSHIRE
VICTIM ASSISTANCE ACADEMY
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HOMICIDE RESPONSE
IN MAINE AND
NEW HAMPSHIRE

LEARNING OBJECTIVES...
- Understand the scope and impact of homicide and the unique elements that impact the co-victims.
- Understand the impact on co-victims and their response to it.
- Identify common problems faced by co-victims.
- Identify services for co-victims.
“Co-Victim”

“I felt like a victim after Nancy’s murder but there was no acceptance of that. We were outsiders – mostly ignored, rarely included, never accorded any legitimacy.”

- Nancy Spungen - 1983

ATTORNEY GENERAL’S OFFICE OF VICTIM/WITNESS ASSISTANCE

- NH - Created legislatively in 1987
- ME - Created legislatively in 1988
  - Provide direct services and support in all homicide cases.
  - 24 hour on call – NH

GRIEF AND LOSS...

“Grief signifies one’s reaction, both internally and externally to the impact of the loss.”
Victimization results in grieving process.
Each person’s loss and coping style varies.
Stages of grief may overlap.
“Normal” reactions to “abnormal” circumstances.

STAGES OF GRIEF...

- Denial
- Anger
- Powerlessness
- Guilt
- Acceptance

ELEMENTS UNIQUE TO HOMICIDE...

- Sudden/Unexpected
- Violent
- Purposeful Act – Intent to Harm
- Stigmatization
ELEMENTS UNIQUE TO HOMICIDE...

- Media/Intrusion
- Criminal or Juvenile Justice System
- Bereavement – Grief Differs

COMMON PROBLEM AREAS FOR CO-VICTIMS...

- Initial investigation
  - Securing of the scene – “body” as evidence – length of time until victim is released
- Cleanup of scene
- Evidence collection – holding of personal items as evidence length of time

COMMON PROBLEM AREAS FOR CO-VICTIMS...

- Autopsy (description of wounds)
- Interviewing family members – invasive questions about the victim
- Dealing with rumors
COMMON PROBLEM AREAS FOR CO-VICTIMS...

- Criminal or Juvenile Justice System
- Financial Considerations
- Employment
- Relationships

COMMON PROBLEM AREAS FOR CO-VICTIMS...

- Children
- Religion
- Media
- Lack of Understanding by Professionals
- Substance Abuse

WHEN A HOMICIDE OCCURS...

- Advocates are on call 24 hours a day.
- Homicide Unit Chief calls advocate to respond to scene to meet the urgent emotional and/or physical needs of the family.
- Called in murder/suicide or unidentified victim cases as well.
HOMICIDE SCENE...
DEATH NOTIFICATION...

- Advocates coordinate and deliver death notification to surviving family, along with a law enforcement officer for safety.
- Assess each situation to determine what specific issues they need to address - medical concerns? religious considerations?
- Provide immediate crisis intervention and support
  Do they need to be interviewed – invasive questions? Are they suspects?

IMMEDIATE AFTERMATH...

- Deal with crime scene issues – Explain process - “body” as evidence.
- Arrange for any immediate necessities such as retrieving belongings from the homicide scene – medications, important papers, children's items.
- Facilitate safe placement of children and/or pets.
- Facilitate biohazard cleanup and restoring the integrity of the crime scene.

IMMEDIATE AFTERMATH...

- Prepare family for media response.
- Assist family with referrals to funeral homes if needed and coordination of transporting loved one to the funeral home.
- Explain in general terms the process of a death investigation.
- Give referrals to social, financial, mental health or medical services.
- Assist with applying for Victim’s Compensation.
AUTOPSY....

- Explain to family the need for autopsy and what that process entails.
- Autopsy Results:
  - Medical Examiner > Prosecutor > Advocate.

INVESTIGATION/NEW CASE INFORMATION...

- Advocate is included in debriefing and is privy to all investigative information and updates on case.

NOTE: Advocate does not share information with family until deemed appropriate by prosecutor.

Goal is to ensure that co-victims receive all case information and case facts directly – not from media or other sources.
PRETRIAL:

- Act as a liaison between family and investigators/prosecutors.
- Orient family into criminal justice system explaining all aspects of the process.
- Notify family of all related hearing and trial dates and attends them with family.

PRETRIAL:

- Keep family updated on case status.
- Homicide support staff give advocate copies all motions, scheduling notices and prosecutor’s responses.
- Review pleadings and motions with family and explains ramifications of each ruling.

PRETRIAL:

- Represent the interests and concerns of the families to the prosecution team.
- Set up meetings between family and prosecutors.
PLEA NEGOTIATIONS...

- Involve family in plea negotiation discussions.
- As plea discussions begin, advocate is notified – begin to prepare family.
- When likelihood that plea will take place, advocate sets up meeting with family, and prosecutors before plea has been finalized.
- Family is briefed on details of plea.
- NOTE: Pleas can not be decided based on families feelings.

TRIAL...

- Support family through trial – preparing them for specific testimony.
- Schedule witness preparation meetings.
- Locate and schedule witnesses including experts, law enforcement personnel and civilians.
- Arrange for transportation/lodging for out of state witnesses

TRIAL...

- Alleviate fear of testifying, address individual concerns and attempt to assist them in being strong, confident and effective witnesses.
- Assist with witness fees.
- Employer, school or creditor intervention.
- Assist with preparing victim impact statements.
**POST CONVICTION...**

- Explain appeal process, and keep family updated on progress.
- Explain sentence review process and keep family notified.
- Assist with property return.

**POST CONVICTION...**

- Arrange for inmate change of status and parole notification.
- Notify family of any sentence suspension motions, hearings and results.
- Attend parole hearings with family.

**HOW TO HELP CO-VICTIMS...**

- Tell co-victims you are sorry,
- Allow grieving in whatever manner they wish for as long as they wish
- Allow them to cry freely
- Allow co-victims to talk about and personalize the victim
How to Help Co-Victims...

- Allow anger to be expressed (CJS/JJS)
- Remember co-victims at holiday times and on anniversaries
- Reassure that they are not to blame
- Let them know you are their to support them

“Victims remember TWO things: those who help, and those who hurt.”

-- Cheryl Ward Kaiser
INTRODUCTION

Unique homicide response in NH and Maine:

- Two of four states where all homicides are prosecuted out of the Criminal Bureau of AG’s Office – prosecutors respond to the scene along with an advocate.
- Major city departments and State Police (Major Crime Unit in NH) conduct the investigations
- Both have Office of the Chief Medical Examiner
- 24 hour on call advocate - works with survivors from death notification throughout the system.
- No statute of limitations on homicide in both states.

ELEMENTS UNIQUE TO HOMICIDE THAT NEGATIVELY IMPACT CO-VICTIMS

“I felt like a victim after Nancy’s murder but there was no acceptance of that. We were outsiders, mostly ignored, rarely included, never accorded any legitimacy.” – Deborah Spungen - 1983

- Co-victim – often not recognized
- Sudden/unexpected “No time to say goodbye”
- Violent – did they suffer? Did they die quickly?
- Purposeful act/intent to harm – must deal with anger, rage and violence inflicted upon loved one. Senseless.
- Stigmatization – victim often blamed for own death - life put on trial
- Bereavement is so prevalent – traumatic grief over homicide differs from other forms of grief. Lasts longer. Wider range of emotions. More intense emotions.
COMMON PROBLEMS FACED BY CO-VICTIMS

Initial Investigation –
- Securing of scene - “body” as evidence - length of time
- Cleanup of scene
- Autopsy (description of wounds)
- Interviewing family members – invasive questions about victim
- Dealing with rumors
- Evidence collection – holding of personal items as evidence

Criminal or Juvenile Justice System –
- Vested interest in participating and understanding complexities of system
- Length of time – appeals, sentence reduction hearings, etc.
- Re-victimization – reliving details, graphic testimony, pictures

Financial - Expenses related to funeral, burial, and medical/ mental health treatment

Employment –
- Ability to perform and function on the job diminished
- Motivation altered
- Absences
- May use work as escape
- Problem with time off attending proceedings

Relationships –
- May grieve differently – blame each other for loss
- Unable to help each other because they cannot help themselves. E.g. Richards case

Children –
- Preoccupied
- Failure to communicate
- Hope to protect them
- Children who witness – trauma
- Blame themselves

Religion –
- Anger and challenges to faith. “How could God let it happen?”
- Reaction – “It was God’s will.”

Media –
- Intrusion of “insensitive media.” vs. need for privacy.
- Inaccurate reporting.
- Gruesome reminders.
- e.g. armored car murders

Lack of understanding by Professionals –
- Do not understanding full impact – “It’s been a year – get on with your life.”
- Over medication of survivors

Substance Abuse –
- Working with co-victims with substance abuse issues.
GRIEF AND LOSS

Exercise: Have Audience look back at a personal loss in their life – i.e. - death in the family. Have them describe the stages of emotion they went through, and discuss how they dealt with those emotions.

Victims of crime go through a similar process, with the stages varying with the type of crime they experienced.

Goal is to have a better understanding of what victims of crime go through.

INTRODUCTION

“Grief signifies one’s reaction, both internally and externally to the impact of the loss.”

- Victimization results in a grieving process similar to that following a death.
- Each person’s loss and coping style is different.
- Stages of grief may overlap.
- Normal reactions to abnormal circumstances.

STAGES OF GRIEF

Denial:
- Shock, feel numb, robot like, scatter brained, confused, capacity for pain shut down.
- Feel like you are “out of body” observing.
- The minds way of shielding us from intolerable pain.

Response: Just listen – do not try to convince them out of denial – must be ready to deal with the pain.

Anger:
- When reality sets in so does anger – difficult to handle – may find yourself a target. e.g. death notification reactions.
- Deep-seated rage

Response: Allow anger to be expressed. Do not say, “You shouldn’t feel that way.” Normal. Channel anger in positive direction. e.g. Goss homicide

Powerlessness:
- When one realizes that life is not fair helplessness may evolve.
- No control over what happened, feel vulnerable
- Loss of trust/innocence
Response: Natural to feel this way. Accommodate their needs – acknowledge helplessness. Help them find ways to feel safe.

Guilt:
- “If only.” “Why?” “I should have done it differently.”
- Regrets and self-blame – often put on them from people around them.
- To blame yourself – clear cause and effect – better that facing the randomness of it all.

Response: Reassure they are not to blame. Guilt needs to be heard and acknowledged. “It’s not your fault.” “You had no way of knowing what was going to happen.”
- Go over what happened again showing they could not have acted differently.
- “I wish I could just die.” - not sick or crazy
- Physical symptoms – stomachaches, cramps, ulcers, not eating, sleeping, chronically tired, loss of sexual desire, crying a lot.

Response: Be available to talk about it. Allow them to talk about and personalize the victim – let them to cry freely. Respect alone time.

Acceptance:
- “I now have hope for the future.”
- Acceptance does not mean forgetting – “Time heals.”
- Revived energy, accept reality of what happened, restored self esteem.
- Always retain permanent scars.
- May have grief spasms.

Response: Support them in their efforts to reconstruct their lives. Remember them on holidays and anniversaries.

HOW TO HELP CO-VICTIMS
- Allow grieving in whatever manner they wish as long as they wish
- Allow them to cry freely
- Allow survivors to talk about and personalize the victim
- Allow anger to be expressed
- Remember survivors at holidays and anniversaries
- Allow co-victims “time out”
- Reassure that they are not to blame
- Tell co-victims you are sorry and that their victimization is horrible
- Support co-victims in their efforts to reconstruct their lives
WHAT CAN ADVOCATES DO TO HELP Co-VICTIMS?

- Learn about the case.
- Determine the co-victims’ need for contact.
- Be familiar with the stages of grief.
- Personalize the victim.
- Protect co-victims from the media
- Provide referrals – counseling/support.
- Provide information on the justice system.
- Recognize every family member will have individual needs
- Review autopsy results and pictures/medical examiner testimony.
- Understand financial considerations.
- Understand victim identification and disqualification from court processes.
- Provide all available court services.
- Alert CJS officials of victims’ safety or emotional concerns.
- Inform survivors of right to civil action.
- Provide brochure on emotional effects.
- Be prepared for death penalty cases.

HOMICIDE: STATE OF NEW HAMPSHIRE

In the State of New Hampshire all homicide cases, excluding negligent homicides, are prosecuted out of the Homicide Unit of the Attorney General’s Office. In all but the major cities, homicide cases are investigated by the Major Crime Unit, within the New Hampshire State Police. Negligent homicides, which include most vehicular homicides, are prosecuted out of the ten County Attorney’s Offices and are investigated by the local police departments.

THE STATE OFFICE OF VICTIM/WITNESS ASSISTANCE

The Office of Victim/Witness Assistance was created legislatively in 1987 to provide 24-hour direct services and support in all of the state’s homicide cases, to standardize services for victims of crime statewide, and to provide training to the professionals involved.

The Office has victim/witness advocates who are on call 24-hours a day. When a homicide occurs anywhere in the state, an advocate responds to the scene along with two prosecutors from the Homicide Unit. Once the victim has been identified, the advocate is responsible for notifying the family of the death and providing crisis intervention and support families in the immediate aftermath of the homicide. Other services include providing extensive services and support, notification and orientation throughout the entire criminal justice system, including post-conviction, sentence reduction, and parole hearings. The goal of the office is to ensure that the rights of victims of crime are protected and to reduce the impact that the crime and
the resulting involvement in the criminal justice system have on the lives of victims and witnesses.

**DEFINITION OF HOMICIDE**

The New Hampshire homicide statute (RSA 630) defines the various degrees of the crime, each carrying a range of penalties:

**Capital Murder**

A person is guilty of capital murder if he knowingly causes the death of:

- A law enforcement officer or a judicial officer while in the line of duty;
- A person before, after, while engaged in the commission of, or while attempting to commit kidnapping, aggravated sexual assault or arson;
- A person involving a murder by hire;
- A person after being sentenced to life imprisonment without parole; RSA 318-B:26, I(a) or (b).
- A person convicted of a capital murder may be punished by death. A person under the age of 17 years cannot be charged with capital murder.

**First Degree Murder**

A person is guilty of murder in the first degree if he:

- Purposely causes the death of a person; or
- Knowingly causes the death of:
  - A person before, after, while engaged in the commission of, or while attempting to commit felonious sexual assault; arson or robbery or burglary while armed with a deadly weapon and the death is caused by the use of such a weapon;
  - The president or president-elect or vice-president or vice-president-elect of the United States, the governor or governor-elect of New Hampshire or any state or any member or member-elect of the congress of the United States, or any candidate for such office after such candidate has been nominated at his party’s primary.
**Second Degree Murder**

A person is guilty of murder in the second degree if:

- He knowingly causes the death of a person; or
- He causes the death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the perpetrator causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony.

Second degree murder is punishable by any term the court may order up to life imprisonment.

**Manslaughter**

A person is guilty of manslaughter when he causes the death of a person:

- Under the influence of extreme mental or emotional disturbance caused by extreme provocation but which would otherwise constitute murder; or
- Recklessly.
- Manslaughter is punishable by imprisonment for a term of not more than 30 years.

**Negligent Homicide**

A person is guilty of a class B felony when he causes the death of a person negligently.

A person is guilty of a class A felony when he causes the death of a person while under the influence of intoxicating liquor and/or a controlled drug while operating a propelled vehicle.
APPENDIX A

HOMICIDE STATISTICS DATA CHART

From 1990 through 2008, a total of 370 homicides* occurred in New Hampshire; 48% involved domestic violence. In those 18 years, the number of homicides has ranged from a high of 35 (1991) to a low of 13 (2002). The percentage of homicides involving domestic violence has ranged from a low of 21% in 1997 to a high of 74% in 2004.

New Hampshire Homicide Statistics
1990 – 2008 (18 Years)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Homicides</th>
<th>Total Domestic Violence</th>
<th>Partner Homicides</th>
<th>Family Members</th>
<th>DV Related Homicides</th>
<th>Total % Domestic Violence</th>
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<tr>
<td>1990</td>
<td>16</td>
<td>8</td>
<td>5</td>
<td>3</td>
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<tr>
<td>1991</td>
<td>35</td>
<td>16</td>
<td>9</td>
<td>5</td>
<td>2</td>
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<td>1992</td>
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<td>11</td>
<td>7</td>
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<td>3</td>
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<tr>
<td>1993</td>
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<td>8</td>
<td>7</td>
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<tr>
<td>1994</td>
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<td>1995</td>
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<td>4</td>
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<td>5</td>
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<td>5</td>
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<td>1998</td>
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<tr>
<td>2002</td>
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<td>2003</td>
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<td>Totals</td>
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<td>176</td>
<td>95</td>
<td>57</td>
<td>24</td>
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</table>

**Partners** – Homicide where the perpetrator and victim ARE intimate partners (e.g., husband kills wife).

**Family Members** – Homicide where the perpetrator and victim ARE NOT intimate partners but ARE family members (e.g., parent kills child).
**Domestic Violence Related** – Homicide where the perpetrator and victim ARE NOT intimate partners and ARE NOT family members but it is related to domestic violence (e.g., estranged husband kills wife’s current intimate partner, or neighbor dies trying to save child from parental abuse).

*This number does not include negligent homicides and officer related homicides.*
HOMICIDE: STATE OF MAINE

The Office of the Attorney General has exclusive responsibility for the prosecution of homicide cases statewide. The Homicide Unit is part of the Criminal Division of the Office of the Attorney General.

The Assistant Attorney General of the Homicide Unit responds to all homicides and advises the law enforcement agencies that conduct investigations. The Maine State Police, Portland Police Department and Bangor Police Department investigate homicides. The prosecutors work closely with those departments and with the Office of the Chief Medical Examiner throughout the investigation and through trial. The Office of the Attorney General also handles any appeals taken from homicide convictions. Prosecutors also work with law enforcement and the Medical Examiner on unsolved homicides.

THE STATE OF MAINE VICTIM/WITNESS SERVICES PROGRAM

The Victim/Witness Services Program is a part of the Criminal Division. The Director of the Criminal Division supervises this program. There are two full time Victim Witness Advocates: Mary Farrar and Susie Miller. The primary objective of this program is to provide easy access to information regarding the criminal justice process to families of homicide survivors and witnesses. Victim/Witness advocates provide support and understanding to homicide survivors and ensure that victims’ rights are respected. Victim/Witness Advocates provide the following services:

- Death Notification
- Counseling referrals
- Court Advocacy- Advocates prepare witnesses for trial and provide information about the criminal justice system. An advocate can provide pretrial courtroom tours, and accompany and support homicide survivors throughout the court process.
- Status notification – Advocates keep homicide survivors informed of the status of cases and court dates.
- Victim Impact Statements- Advocates can help victims and survivors prepare a statement to present to the court on the impact the crime has had on the survivor and the family.
- Victims’ Compensation- Advocates can provide information regarding reimbursement for homicide survivors relating to certain expenses and losses.
- Notification of Release- Advocates will help survivors file applications with the Department of Corrections.
Offenses Against the Person

The Maine Criminal Code (17-A) defines the different degrees of the crime of murder; each contains different penalties and fines:

Murder

1. A person is guilty of murder if the person:
   A. Intentionally or knowingly causes, the death of another human being;
   B. Engages in conduct that manifests a depraved indifference to the value of human life and that in fact causes the death of another human being;
   C. Intentionally or knowingly causes another human being to commit suicide by the use of force, duress or deception.

A person convicted of the crime of murder shall be sentenced to imprisonment for life or for any term of years that is not less than 25. A person who has not attained the age of 18 years cannot be charged with murder as an adult, however the juvenile can be charged with the juvenile offense of murder and in the event the court believe it to be appropriate the juvenile can be bound over and tried as an adult.

MAINE’S UNSOLVED MURDERS ARE CONSIDERED OPEN FILES AND ARE STILL UNDER INVESTIGATIONS. THERE IS NOT A STATUTE OF LIMITATIONS FOR MURDER IN MAINE.

Felony Murder

1. A person is guilty of felony murder if acting alone or with one or more other persons in the commission of, or an attempt to commit, or immediate flight after committing or attempting to commit, murder, robbery, burglary, kidnapping, arson, gross sexual assault, or escape, the person or another participant in fact causes the death of a human being, and the death is a reasonably foreseeable consequence of such commission, attempt or flight.

Felony murder is a Class A crime.

Manslaughter- Manslaughter is a Class A crime.

1. A person is guilty of manslaughter if that person:

   A. Recklessly; or with criminal negligence, causes the death of another human being.

   B. Intentionally or knowingly causes the death of another human being under circumstances that do not constitute murder because the person causes the
death while under the influence of extreme anger or extreme fear brought about by adequate provocation.

C. Has direct and personal management or control of any employment, place of employment or other employee, and intentionally or knowingly violates any occupational safety or health standard of this State or the Federal Government, and that violation in fact causes the death of an employee and that death is a reasonably foreseeable consequence of the violation.

Aiding or soliciting suicide.

1. A person is guilty of aiding or soliciting suicide if he intentionally aids or solicits another to commit suicide, and the other commits or attempts suicide. Aiding or soliciting suicide is a Class D crime. The maximum time of incarceration can be less than one year.

Criminal solicitation

1. A person is guilty of solicitation if he commands or attempts to induce another person to commit murder.

Criminal solicitation is a Class A crime.

In the case of a Class A crime, the court shall set a definite period not to exceed 40 years. The court may consider a serious criminal history of the defendant and impose a maximum period of incarceration in excess of 20 years.
DRUNK DRIVING

PRESENTED BY:
SANDI MATHESON
DRUNK DRIVING

OBJECTIVES:

*Upon completion of this module the participant will be able to:*

- Understand the historical perspective/grassroots efforts that led to a national movement against drunk driving.
- Understand the impact of drunk driving on the victim.
Drunk Driving

Presented by:
Sandra Matheson
NH Attorney General’s Office

Learning Objectives...

- Understand historical perspective/grassroots efforts that led to a national drunk driving movement.
- Understand the impact of drunk driving on the victim.

Introduction

- Much of homicide section applies to drunk driving.
- More Americans killed in drunk driving crashes than in wars the United States has been involved in (NHTSA 1998)
- Victim Assistance/prevention programs/public policy – changed the public’s perception and tolerance for the crime.
**HISTORICAL PERSPECTIVE...**

- Drunk driving, before 1980s was considered socially acceptable.
- Victim was at the “wrong place at the wrong time”.
- Referred to as “accidents.”

**HISTORICAL PERSPECTIVE...**

- First BAC law not passed until 1972. (NY and Nebraska). Not much attention paid to laws, e.g. 1982 President’s Task Force on Victims of Crime Report.
- 1982-1997 – more than 1,700 pieces of anti-drunk driving legislation passed.
- Fatalities went down 40% since 1980.

**IMPACT ON VICTIM...**

- UNEXPECTED/SUDDEN/PREVENTABLE
- VIOLENT
  - Often results in extreme anger – Justice system does not provide the same sanctions as they do for other injury/death crimes.
  - Maximum sentences for those crimes only a fraction.
**IMPACT ON VICTIM...**

- NOT an accident – the result of two conscious choices – to use alcohol and drive a vehicle.
- Drunk driving is a CRIME.
- Words make a difference – “crash”, “crime”, or “incident” v. “accident,” “killed” v. “died”.
- Catastrophic injury resulting in permanent disability have long lasting effect on victim and family.

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**DEATH NOTIFICATION**

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**DEATH NOTIFICATION......**

- IN TIME
- IN PERSON
- IN SIMPLE LANGUAGE
- WITH COMPASSION
“THE CORNERSTONE OF THE RECOVERY PROCESS IS THE INITIAL DEATH NOTIFICATION.”

DEBORAH SPUNGEN
I. INTRODUCTION

- Much of the homicide section also applies to drunk driving fatal crashes, e.g. Unique factors, the common problems faced by co-victims, stages of grief, as well as much of the victim assistance and what advocates can do to assist victims and co-victims.
- More Americans have been killed in alcohol related traffic crashes than in all wars the United States has been involved in since it was founded. (NHTSA 1998)
- Unique perspective of the anti-drunk driving movement is its equal emphasis on victim assistance and prevention programs – most clear in public policy development and implementation actually changed the public’s perception and tolerance for the issue.

II. HISTORICAL PERSPECTIVE

- Before 1980s, drunk driving was considered unfortunate but socially acceptable.
- Victims were considered to be “in the wrong place at the wrong time” and unable to avoid what were referred to as “accidents”.
- First .10 BAC law stating conclusively “illegal per se” was not passed until 1972. (NY and Nebraska)
- Neither the press nor the public paid much attention to these limits.
- E.g., 1982 Final Report of the President’s Task Force on Victims of Crime, which resulted in VOCA, did not address drunk driving, even though it was on of the most frequently committed crimes in the country.
- Between 1982 and 1997 more than 1700 pieces of anti-drunk driving legislation was passed nationwide.
- Drunk driving fatalities went down 40% since 1980.

III. IMPACT OF DRUNK DRIVING ON THE VICTIM

- Difficulty working with co-victims of those killed or injured in drunk driving or other drug related crashes because of their anger.
- Justice system does not provide same sanctions for these crimes as they do with other crimes with the same result – death or catastrophically maimed victims.
- Maximum sentences only a fraction of those involving a weapon other than a vehicle.
- NOT AN ACCIDENT – result of two conscious choices: to use alcohol or other drugs and drive a vehicle.
- Like homicide vehicular death or injury is UNEXPECTED/SUDDEN/PREVENTABLE.
• It is also VIOLENT – death or injury at the hands of an impaired driver causes violence to the body.
• Drunk driving is a CRIME. Advocates should use the word “crash”, “crime” or “incident” never “accident” and “killed” v. “died” which feels too passive.
• Catastrophic injury resulting in permanent disability may have a more lasting impact on families than death, as physical and emotional suffering over-spends the energy needed to function on a day-by-day basis.

DEATH NOTIFICATION

“The cornerstone of the recovery process is the initial death notification.” – Deborah Spungen

IN TIME
IN PERSON
IN SIMPLE LANGUAGE
WITH COMPASSION

• Impact of notification on family members and person doing the notification.
• Examples of the “wrong way” to do a death notification.
• Notification of the Death
  o Preparations before making the notification.
    ▪ Confirm identification of victim.
    ▪ Get medical history of person to be notified.
  o Always do it in person – NEVER call.
  o Ideally do it in pairs – if officers have one in uniform.
  o Define each role – one communicates information, the other watches the reactions.
  o Mentally prepare for notification.
• Delivery of Notification
  o Introduce yourselves and present credentials.
  o Ask to come in.
  o Verify next of kin
  o Sit down
  o Inform Simply and Directly with Compassion
    ▪ Do not depersonalize victim – do not use word “body”
    ▪ Do not use euphemisms – use “dead” or “died” or “killed”
    ▪ Do not patronize or discount feelings
    ▪ Say you are sorry for what has happened.
  o Do not discount feelings, theirs or yours.
  o Answer all questions honestly – have information.
  o Do not leave them alone
DRUNK DRIVING: STATE OF NEW HAMPSHIRE

The “Stop DWI” movement in New Hampshire began on June 16, 1982 when 18 year old Damon Spencer was killed by a drunk driver. Damon, only days from his high school graduation, was driving his motorcycle home from his senior party when the drunk driver made a left turn in front of him, cutting him off.

The drunk driver had been drinking with his co-workers for several hours at a company baseball game. He was prosecuted, convicted and sentenced to prison time.

Damon’s parents, Shirley and Leo Spencer, started the New Hampshire Concerned Citizens Against Drunk Driving (CCADD). They followed their case through the Criminal Justice System and became advocates for other families in similar circumstances.

Leo researched the existing laws in New Hampshire, as well as those in other states. He became affiliated with the national organization RID, Remove Intoxicated Drivers, and set out to make New Hampshire highways safer for citizens.

Leo was invited to join Judd Gregg’s 26 member Governor’s Task Force to Prevent Impaired Driving. This group recognized a need for an agency with paid staff to work with volunteers, victims, law enforcement, legislators, educators, media, etc. The New Hampshire DWI Prevention Council was incorporated in 1984 and Leo Spencer became the Executive Director. A few years later he became a member of the New Hampshire Legislature.

Leo and the Board of Directors hired Patricia Rainboth in 1986 to become the Assistant Director and Victim Advocate. Pat worked with families throughout the State, meeting people shortly after a loved one was killed in an alcohol related crash, and following the case through the Criminal Justice System.

Pat Rainboth found that services for crash victims were non-existent in 1986. Families were not informed of court proceedings, and were not encouraged to attend trials or sentencing. There wasn’t anyone to accompany them to fatal hearings at the Department of Safety, arraignments in District Court, trials in Superior Court, appeals at the Supreme Court, parole hearings at the prison, etc.
Alcohol related crashes continued to be called “accidents”. Drug impairment among teens and young adults became a greater concern. Sentences on negligent homicide were frequently deferred or suspended. Change was coming.

County Attorneys and the Attorney General Office hired Victim Advocates. Victims were informed and encouraged to write Victim Impact Statements. Laws were changed, sanctions enhanced.

Alcohol related fatalities reached a high of 73 in New Hampshire in 1989 and a low of 30 in 1992. The numbers were up in 1993, and rose again to a high of 52 in 1999. Opinions vary as to which laws or practices have been of greatest impact. The one overriding opinion is that the work must continue.

**LAWS**

Several bills struggled through the New Hampshire House and Senate for many sessions before passing. These included: habitual offender, open container, enhanced penalties for second or subsequent DWIs, transportation of alcohol by minors, providing alcohol to minors, sobriety checkpoints, .08.

New Hampshire established the legal drinking age at 18 on June 3, 1973. Six years later, on May 24, 1979, the “legal” age became 20. Six years after that, June 1, 1985, the legal drinking age became 21.


- Negligent Homicide, alcohol involved, went from a Class B to a Class A felony.
- Aggravated DWI with serious bodily injury went from a misdemeanor to a Class B felony.
- The Open Container law became effective January 1, 1992.
- The Victims Bill of Rights became effective January 1, 1992.
- Habitual Offender became a felony.
- ALS, Administrative License Suspension, was effective January 1, 1993.
- .08 BAC became effective January 1, 1994.
- Transportation of alcohol by minors can now result in denial of a driver’s license, or suspension of driving privileges.
- Zero tolerance for under aged drinkers (.02 BAC legal limit).
- Enhanced penalties for second offense or subsequent DWI were passed.
- Victims Compensation up to $5,000 became available for victims in felony cases.
- Providing alcohol to minors became a misdemeanor.
• Sobriety Checkpoints were deemed constitutional.
• The Graduated License law became effective January 1, 1998.

Administration license suspension for a driver determined to be materially responsible for the death of another changed from a possible three year loss of license to a possible seven year loss of license in 2000.

The limit of Victims Compensation was increased to $10,000 and included misdemeanor victims.

Victims and victim advocates have a strong voice during hearings on DWI bills and penalties. The people who have suffered have gained knowledge of problems and in sight into solutions.
RESOURCES

VICTIMS, INC., The Joan Ellis Victim Assistance Network, was established in October 1991. It is named for Joan Ellis, who was seven months pregnant when she and her unborn child were killed in a crash in Exeter. Her two year old daughter survived serious injuries. Joan’s husband Jim, wanting to create something in her name, worked with Pat Rainboth to found VICTIMS, INC.

The mission of VICTIMS, INC. is to complete the circle of services for victims, from the onset of trauma through healing. All services are free.

The web site is www.victimsinc.org.

VICTIMS, INC. has offices in Strafford and Rockingham Counties.

The Strafford County office is located at:
107 Highland Street
East Rochester, NH 03868

The mailing address is:
P. O. Box 455
Rochester, NH 03868-0455

Telephone 603-335-7777
Email: pat.rainboth@victimsinc.org

The Rockingham County office is located at:
Cozy Corners Plaza
61 Route 27 Suite 17
Raymond, NH 03077-1273

Telephone 603-895-3339
Email: joanneleach@victimsinc.org

This agency offers many services, including:

- Reaching out to surviving family members of every fatal crash in NH
- Trauma Intervention Volunteers to respond within minutes of pages
  from police, fire and emergency medical personnel to assist victim
  families at scenes, hospitals and homes.
- Going with police officers to do death notifications, prepared to stay until family support
  is in place.
- Attending wakes and funerals.
- Sending sympathy cards and laminated obituaries.
• Accompanying family members through Criminal Justice and Department of Safety procedures.
• Advising family of Victims Compensation.
• Inviting negligent homicide and homicide victims to participate in the Victims’ Memorial Quilt projects.
• Sending holiday cards with snowflakes.
• Inviting families to participate in Victims Rights Week activities annually.
• Twice monthly support groups for grieving adults (GAP – Grieving Assistance Program).
• Weekly support groups in schools for grieving students (GAPS – Grieving Assistance Program for Students).
• Weekend camps for grieving students (Camp Purple Parachute).
• Providing information regarding pending legislation.

Mothers Against Drunk Driving – MADD

Mothers Against Drunk Driving is a nonprofit organization of over 400 chapters nationwide. Many of our members are indeed mothers, but fathers, aunts, uncles, and so many others can join too. In fact, the only requirement is that you care enough to keep our roads free of impaired drivers - those under the influence of alcohol. Our mission is to stop drunk driving, support the victims of this crime, and prevent underage drinking.

MADD is not opposed to responsible use of alcohol by people over 21. Drinking is a personal choice that becomes a public issue when driving impaired.

Activities include:

• Court Monitoring - MADD members observe court proceedings to ensure that the laws relating to driving under the influence are enforced.
• Public Education - MADD members speak to groups of all sizes on the consequences of driving under the influence of alcohol or other drugs.
• Victim Assistance - MADD members offer emotional support to victims by providing information and referrals. Victims often find comfort talking to those who have experienced a similar loss.
• Legislative Reform - MADD members work with legislators and law enforcement officials to strengthen laws against alcohol and other drug impaired driving.
MADD, NH is committed to protecting you, your family, and your friends from impaired drivers.

MADD – NH
President Lydia Valliere
123 Goffe Street
Manchester, NH 03102
1-800-764-6233
6-3-622-0399
SADD – STUDENTS AGAINST DESTRUCTIVE DECISIONS

SADD National
P. O. Box 800
Marlboro, MA 01752
1-877-SADD-INC.

There are SADD chapters in many New Hampshire High Schools