

KENTUCKY  
JUSTICE & PUBLIC SAFETY CABINET

GRANTS MANAGEMENT BRANCH



2011-2013

Violence Against Women Act  
(Services, Training, Officers, Prosecution)

GRANT IMPLEMENTATION PLAN

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# **I. INTRODUCTION**

## ***IMPLEMENTING AGENCY***

The Kentucky Justice and Public Safety Cabinet, Grants Management Branch, is the state administering agency for Violence Against Women Act STOP grants, and is therefore the agency responsible for this implementation plan.

The Kentucky Justice and Public Safety Cabinet (KYJPSC) is the state entity responsible for criminal justice services, which encompasses law enforcement activities and training; prevention, education and treatment of substance abuse; juvenile treatment and detention; adult incarceration; autopsies, death certifications and toxicology analyses; special investigations; paroling of eligible convicted felons; and long range planning and recommendations on statewide criminal justice reform issues.

The Grants Management Branch (GMB) receives approximately \$15-18 million on an annual basis from various federal grant programs to distribute to state and local criminal justice agencies and not-for-profit service providers. In 2009, GMB also received \$17.8 million in American and Recovery and Reinvestment Act (ARRA) funds. These funds are disbursed through grant programs such as the Justice Assistance Grants (JAG), Violence Against Women Act (VAWA), and Victims of Crime Act (VOCA) and others. Each competitive grant program has its own objectives, allowable uses of funding, matching and eligibility requirements. GMB also adheres to specific policy priorities as set forth by the Commonwealth of Kentucky.

## ***ORGANIZATION OF THIS PLAN***

This plan is organized into three major sections: Description of the Planning Process, Needs and Context, and Plan Priorities and Approaches.

The Description of the Planning Process will discuss how needs have been identified and prioritized, an overview of the membership of the Implementation Planning Committee, and a description of continuous efforts to update the plan throughout the timeline of this plan.

For further details on the organization of this plan, please review the Table of Contents provided on page 2.

## ***IMPLEMENTATION PERIOD***

The time period covered by this plan is January 1, 2011 – December 31, 2013. This plan will be updated as needed during that time period, and reviewed comprehensively on an annual basis.

## II. DESCRIPTION OF PLANNING PROCESS

### ***GENERAL PLANNING CONSIDERATIONS***

The Implementation Planning Committee (IPC) for the Kentucky VAWA STOP grant program is a multi-disciplinary advisory body. Information is gathered from members of the IPC for development of this plan and funding priorities (see [Grant Making Strategy](#) for information about Kentucky's grant-making strategies).

Information about state-wide needs was gathered for this plan in a variety of ways. The KYJPSC and GMB have been active in several multi-disciplinary planning groups working on issues related to VAWA funding and priorities. The Sexual Assault Response Team Advisory Committee (SART Advisory Committee), chaired by leadership of Kentucky Association of Sexual Assault Programs and Kentucky State Police, has worked toward the enactment of legislation (HB 500, passed by the 2010 Kentucky General Assembly, amended KRS 216B.400) ensuring Kentucky's continued federal compliance with the Violence Against Women Reauthorization Act of 2005, 42 U.S.C. 3796gg through 3796gg-5 (see [Attachment 3](#) for more information). As well, the SART Advisory Committee has worked to develop the *Sexual Assault Forensic-Medical Exams Toolkit Compliance Guide: Safe Exams for Victims Without Reporting to Law Enforcement*<sup>1</sup>; to train SANE nurses throughout Kentucky on compliance with new legislation; and to develop local protocols for storage of collected Kentucky State Police Sexual Assault Evidence Collection Kits that will not be released to law enforcement in cases of non-reporting. GMB staff attends these meetings, and additional members of the Kentucky Justice and Public Safety Cabinet (Office of the Secretary) have assisted specifically in the passage of HB500. GMB staff also served on the planning committee for the *Ending Sexual Assault and Domestic Violence Conference* hosted annually by the Kentucky Domestic Violence Association and Kentucky Association of Sexual Assault Programs; co-sponsored a conference with Kentucky's Crime Victim Compensation Board: *Balancing the Scales: Possibilities*; met with sub-groups of the IPC to discuss particular concerns related to VAWA funding and priorities; and attended the *National Leadership Summit on State Court Responses to Domestic Violence* with members of the Kentucky court system for planning around use of VAWA STOP funding of court initiatives to address violence against women.

Kentucky Domestic Violence Association, the Cabinet for Health and Family Services' Division of Violence Prevention Resources, Kentucky Association of Sexual Assault Providers, Kentucky Legal Aid, The Office of the Attorney General's Office of Victims Advocacy, the Kentucky Justice and Public Safety Cabinet's Statistical Analysis Center, and Kentucky State Police provided information, research, and/or opinions for inclusion in this plan.

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<sup>1</sup> Supported by ARRA VAWA STOP funds under sub-grant number VAWA ARRA-2009-KASAP-00046, awarded by the Office on Violence Against Women, U.S. Department of Justice, through Kentucky Justice and Public Safety Cabinet.

## ***COLLABORATION WITH NON-PROFIT, NON-GOVERNMENTAL VICTIM SERVICES***

The Kentucky Domestic Violence Association and the Kentucky Association of Sexual Assault Programs, Kentucky's domestic violence and sexual assault provider coalitions, serve on the IPC and represent the state-wide interests and needs of the regional Domestic Violence Programs and Rape Crisis Centers. As well, the formal membership of the current IPC includes several victim service providers who are asked to represent needs of victims *throughout the state*.

Input from victim service providers, as from representatives of all disciplines, is sought during in-person meetings of the full IPC, or through more frequent, ad hoc requests for information via telephone or email.

Several sources of information from victim service providers have been provided for assistance in the preparation of this Implementation Plan (see [III. NEEDS AND CONTEXT](#)), and will be used to develop funding priorities during each application cycle, as appropriate (see [IV. PLAN PRIORITIES AND APPROACHES](#)).

A full roster of formal membership on the committee can be found in Table 1.

**Table 1**

<b>Name</b>	<b>Agency</b>	<b>Discipline</b>
Andrea Walden	Kentucky Justice and Public Safety Cabinet, Grants Management Branch	Grant Administrator
Tanya Dickinson	Kentucky Justice and Public Safety Cabinet, Grants Management Branch	Grant Administrator/Grants Management Branch Manager
Jane Rutledge	Kentucky Justice and Public Safety Cabinet, Grants Management Branch	Grant Administrator
Eileen Recktenwald	Kentucky Association of Sexual Assault Programs (KASAP)	Victim Services/ Statewide Sexual Assault Coalition
MaryLee Underwood	Kentucky Association of Sexual Assault Programs (KASAP)	Victim Services/ Statewide Sexual Assault Coalition
Lana Grandon	Kentucky Office of the Attorney General	Prosecution
Sheriff Kathy Witt	Fayette County Sheriff	Law Enforcement
Angela Yanelli	Kentucky Domestic Violence Association	Victim Services/ Statewide Domestic Violence Coalition
Catherine DeFlorio	Legal Aid of the Bluegrass	Victim Services

Diane Fleet	Bluegrass Domestic Violence Program	Victim Services
Billie Davenport	Brenda Cowan Coalition	Victim Services
Karen Trivette	Brenda Cowan Coalition	Victim Services
Carolyn Nunn	Louisville Metro Police Department	Law Enforcement
Christy Burch-Epperson	University of Kentucky VIP Center	Victim Services
Judge Tamra Gormley	Family Court Judge	Courts
Jennifer Hans	Kentucky Office of the Attorney General	Prosecution

## ***COLLABORATION WITH TRIBES***

The most current data available shows 0.3% of Kentucky's population are American Indian and Alaska Native persons. The National Conference of State Legislatures lists no state- or federally-recognized tribes in Kentucky<sup>2</sup>.

## ***DIVERSITY AND IMPLEMENTATION PLANNING***

GMB strives to maintain an IPC that is geographically, culturally, and racially diverse. As discussed in *Continuous Planning Activities*, a large goal for 2011 implementation planning is restructuring the IPC to most efficiently and effectively represent the entire state, all relevant disciplines (including law enforcement, prosecution, courts and victim services), and traditionally underserved populations. In addition, another primary aim will be to specifically assess needs of a diverse range of victims.

## ***CONTINUOUS PLANNING ACTIVITIES***

1. During 2011, the administering agency plans to examine the current membership of the planning committee to achieve the following:

**Table 2**

<b>PRIORITY ISSUE or CONCERN</b>	<b>ACTION PLAN</b>	<b>POTENTIAL BARRIERS</b>	<b>DEADLINE</b>
<b>1. Ensure</b>	<b>1a. Invite existing</b>	<b>1a. Interested</b>	<b>January</b>

<sup>2</sup> <http://www.ncsl.org/?tabid=13278>

representation on the IPC is distributed according to the geography of the state	members of the IPC to represent and assess the needs of victims throughout the state (not the exclusive needs of the agency or region they represent).  <b>1b. Invite additional members as needed (see item 2 in this table)</b>	parties may not fully represent the required or desired disciplines, geographic areas, or victims with special needs.  <b>1b. (see item 2 in this table)</b>	31, 2011
2. Ensure representation of law enforcement, prosecution, and courts is complete	2a. Invite state associations of Sheriffs, Police Chiefs, County and Commonwealth Attorneys, and others  2b. Limit the number of representatives from specific localities, except when state-level agency interest is not available.	2a. Interested parties may not represent the required or desired disciplines, geographic areas, or victims with special needs.	January 31, 2011

Additional action steps will be added as needed throughout the implementation period.

2. During the three-year implementation period (1/1/2011—12/31/2013), the IPC will establish more regular communication.

<b>PRIORITY ISSUE or CONCERN</b>	<b>ACTION PLAN</b>	<b>POTENTIAL BARRIERS</b>	<b>DEADLINE</b>
Communication/meetings are not occurring regularly	1a. Schedule in-person meetings at the Justice and Public Safety Cabinet Offices in Frankfort, KY, as	1a. VAWA STOP Administering Agency currently oversees many active ARRA subgrantees. The	Meetings scheduled as needed.  List-serve established

<p>needed.</p> <p><b>1b. Develop a list-serve or other electronic communication method agreeable to IPC to facilitate (at least) monthly discussions about VAW issues presenting throughout the state.</b></p>	<p><b>time required for planning, scheduling, and facilitating these meetings may interfere with the time requirements of monitoring multiple other grant programs.</b></p> <p><b>1b. The list-serve will not be utilized frequently.</b></p>	<p><b>within 14 days of finalizing membership roster.</b></p>
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### III. NEEDS AND CONTEXT

#### DEMOGRAPHICS and GEOGRAPHY

The Commonwealth of Kentucky is home to 4,314,113 residents, 50.9% of which are female. Of the total population, 89.6% are White, 7.9% are Black, and 2.7% are persons of Hispanic or Latino origin<sup>3</sup>. An overview of Kentucky's age profile is provided in Table 3.

**Table 3**

<b>Age</b>	<b>Percent</b>
Under 5 years	6.60%
5 to 9 years	6.40%
10 to 14 years	6.60%
15 to 19 years	6.80%
20 to 24 years	6.30%
25 to 34 years	13.30%
35 to 44 years	14.10%
45 to 54 years	14.80%

<sup>3</sup> Adapted from U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, Census of Population and Housing, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report  
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55 to 59 years	6.40%
60 to 64 years	5.40%
65 to 74 years	7.20%
75 to 84 years	4.30%
85 years and over	1.60%

The percentage of persons living below the poverty level in 2008 was 17.3% (as opposed to 13.2% in the entire U.S.; see also Figure 1). Seventeen percent of Kentuckians had a disability. The percent of foreign born persons residing in Kentucky was 2% in 2000 (as opposed to 11.1% in the entire U.S.)<sup>4</sup>, with 66% of this population non-U.S. citizens<sup>5</sup>. 3.9% of Kentucky residents spoke a language other than English at home (in 2000; as opposed to 17.9% in the entire U.S.)<sup>6</sup>.

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<sup>4</sup> U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, Census of Population and Housing, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report

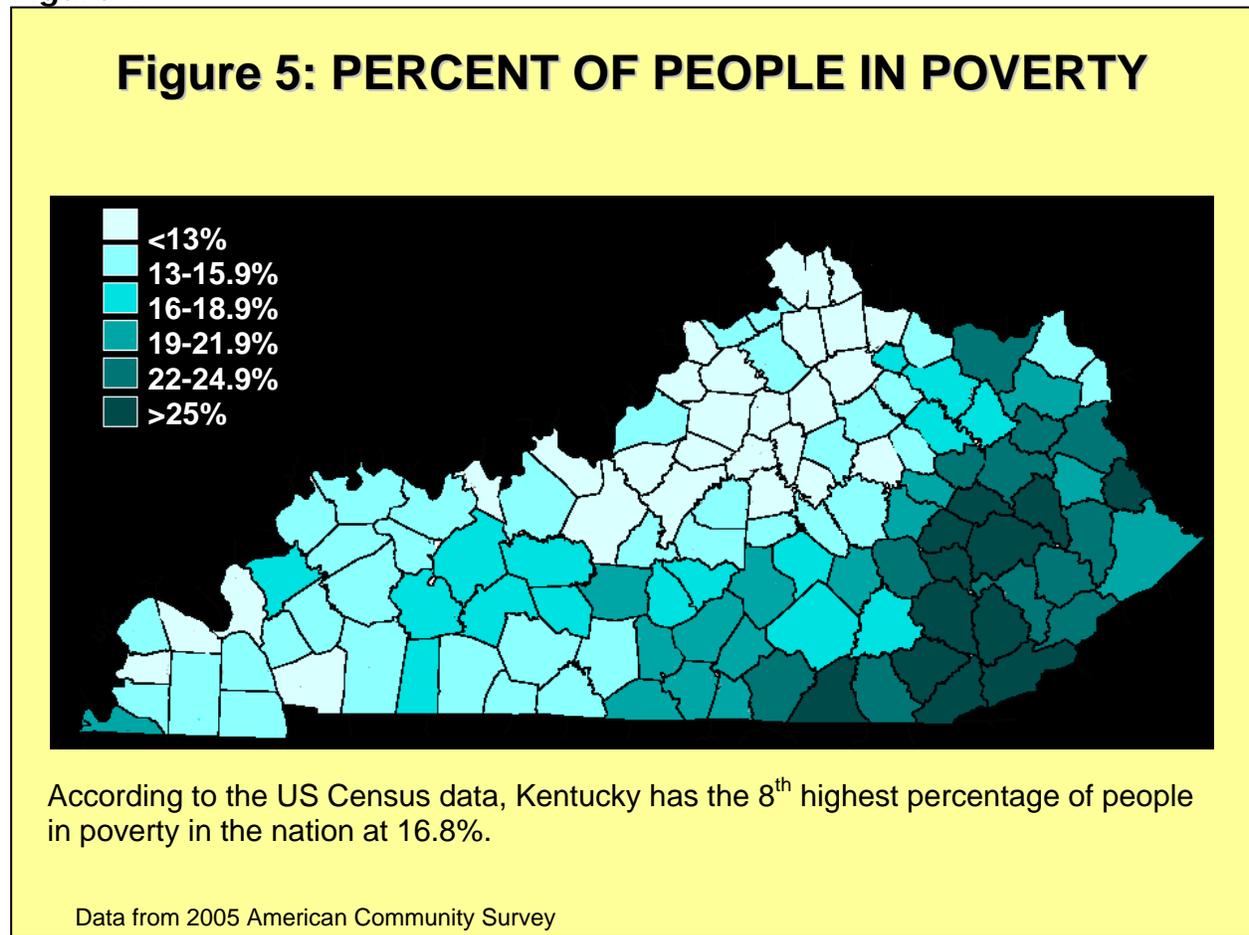
Last Revised: Monday, 16-Aug-2010 08:49:10 EDT

<sup>5</sup> U.S. Census Bureau, 2008 American Community Survey

<sup>6</sup> U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, Census of Population and Housing, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report

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Figure 1<sup>7</sup>



For economic planning and other purposes, Kentucky is divided into 15 "Area Development Districts" (ADD). Each ADD is composed of multiple counties, ranging from about 7-15 counties. Figure 2 shows a map of the ADDs in Kentucky. Each ADD contains a state-designated Domestic Violence Program and Rape Crisis Center (see Table 4 for a full listing by ADD). Each of these centers is also a member of the state sexual assault or domestic violence coalition (or both), Kentucky Association of Sexual Assault Programs and Kentucky Domestic Violence Association, respectively.

<sup>7</sup> Kentucky State Plan for Primary Prevention of the Perpetration of Sexual Violence. Compiled by: Committee of the Council on Domestic Violence and Sexual Assault State Prevention Team

Figure 2<sup>8</sup>

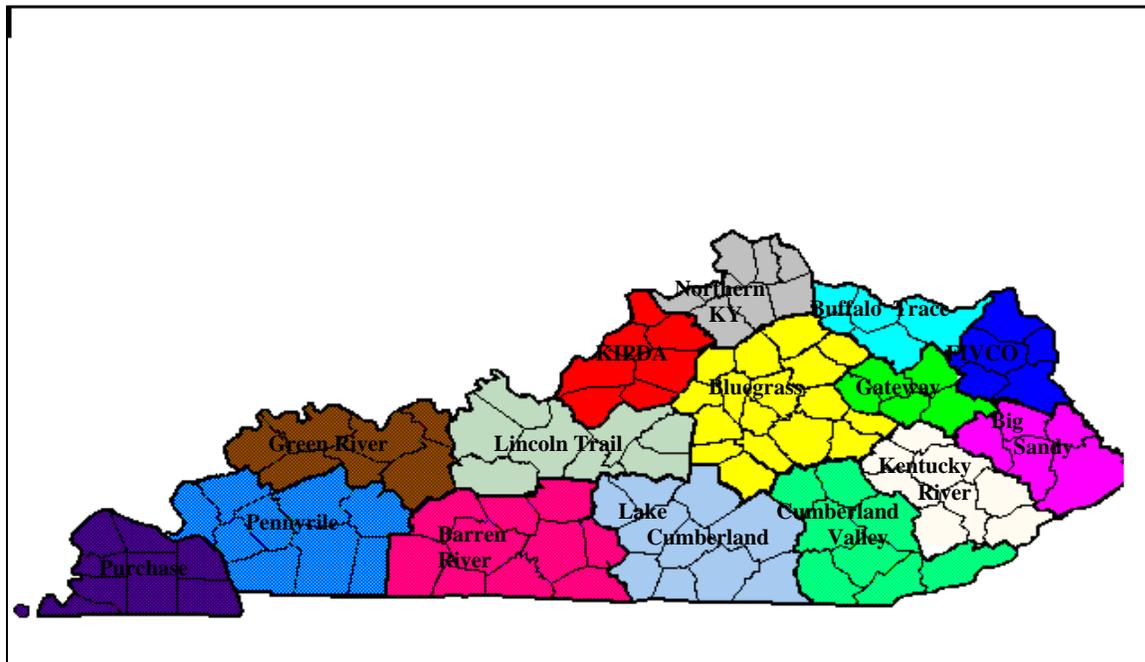


Table 4

Area Development District	Domestic Violence Program	Rape Crisis Program
Northern Kentucky	Women's Crisis Center	Women's Crisis Center
Buffalo Trace	Women's Crisis Center	Women's Crisis Center
FIVCO	Safe Harbor	Pathways, Inc.
Big Sandy	Big Sandy Family Abuse Center	Mountain Comprehensive Care
Kentucky River	LKLP Safe House	Kentucky River Community Care
Gateway	DOVES of Gateway	Pathways, Inc.
Cumberland Valley	Family Life Abuse Center	Cumberland River Comprehensive Care
Lake Cumberland	Bethany House Abuse Center	Adanta Regional Victim Services Program
Barren River	Barren River Area Safe Space	Hope Harbor
Pennyrile	Sanctuary, Inc.	Sanctuary, Inc.
Purchase	Merryman House	Rape Crisis Center
Green River	OASIS, Inc.	New Beginnings
Lincoln Trail	Springhaven	Advocacy and Support Center
KIPDA	Center for Women and Families	Center for Women and Families
Bluegrass	Bluegrass Domestic Violence Program	Bluegrass Rape Crisis Center

<sup>8</sup> Kentucky State Plan for Primary Prevention of the Perpetration of Sexual Violence. Compiled by: Committee of the Council on Domestic Violence and Sexual Assault State Prevention Team

# VICTIMIZATION RATES AND STATISTICS IN KENTUCKY

## Sexual Violence

More than 1 in 10 respondents (11.9%) to the Kentucky Statistical Analysis Center's 2008 study *Criminal Victimization Experiences, Fear of Crime, Perceptions of Risk, and Opinion of Criminal Justice Agents among a Sample of Kentucky Residents* reported being forcibly raped at some point in their life. According to the Kentucky State Police 2009 Crime in Kentucky Annual Report, 2,648 arrests were made in 2008 for all sex offense crimes, and 4,704 arrests were made in 2009. The number of rapes reported in 2009 was 1567, of which there were 698 case clearances (a 45% clearance rate).

Victims of sexual crimes appear somewhat reluctant to report to law enforcement in Kentucky. In the Criminal Victimization Experiences study, women were more likely than men to have reported a sexual offense committed against them to police in the previous 12 month period, through reporting rates for both men and women are low at 25% of women reporting forced sexual intercourse and only 6.3% reporting any unwanted sexual activity such as touching, grabbing, kissing, fondling, etc. For either type of crime, 0% of men reported to police. In their lifetime, only 10% of men and 12% of women had reported forced or attempted forced sexual intercourse. A vast majority chose not to report to police.<sup>9</sup>

## Domestic Violence

The definition of domestic violence, according to Kentucky law, includes any of the following crimes when committed by one family member/partner against another: homicide, kidnapping, sex offenses, stalking, assault, and terroristic threatening.<sup>10</sup> This makes the prevalence of domestic violence in Kentucky more difficult to determine than for rape and sex offenses, because arrest information on domestic violence crimes is unclear.

Information about protective order requests and issuance, reports of domestic violence among spouses to Adult Protective Services, and requests for services from Kentucky domestic violence programs give an idea of domestic violence rates in Kentucky. Kentucky Administrative Office of the Courts reports that 26,388 petitions were filed by persons seeking Domestic Violence Protective Orders in State Fiscal Year 2009. Of those, 25,768 resulted in disposition case closings<sup>11</sup>. Law Information Network of Kentucky (LINK) Domestic Violence Files for Fiscal Year

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<sup>9</sup> Criminal Victimization Experiences, Fear of Crime, Perceptions of Risk, and Opinion of Criminal Justice Agents among a Sample of Kentucky Residents – 2008. Available at: <http://justice.ky.gov/NR/rdonlyres/15878C81-10EF-443A-B3C3-FD386219B5A1/203501/2008KYVictimizationStudy.pdf>

<sup>10</sup> Kentucky State Police 2009 Crime in Kentucky Annual Report

<sup>11</sup> Administrative Office of the Courts. Report from COURTNET. AOC does not distinguish between cases dismissed and types of orders issued.

2009 show that 19,429 Emergency Temporary Protective Orders were issued and 5,931 of these were entered into LINK with caution to officers that a weapon was involved and/or the respondent is believed to be armed and dangerous. Ultimately 7,909 (40%) Emergency Temporary Orders resulted in the issuance of an Emergency Protective Order that can be effective up to 3 years, and 3,102 of those were issued with cautions to officers.<sup>12</sup> LINK Domestic Violence File records reflect a .65% decrease in protective orders issued from Fiscal Year 2008 to 2009.

The 1976 Kentucky General Assembly enacted KRS 209, the Adult Protection Act, which mandates reporting any known or suspected cases of adult abuse, neglect or exploitation to the Cabinet for Health and Family Services, Division of Protection and Permanency, Department for Community Based Services (DCBS). DCBS protective and support services are provided to adult victims upon request. In 1978 the statute was expanded to include the mandatory reporting and delivery of voluntary protective services to victims of spouse abuse. Law enforcement agencies continue to serve as the primary reporting source to DCBS and often work together in responding to violent families. 19,505 domestic violence<sup>13</sup> allegations were investigated in Fiscal Year 2009, representing 33% of the total adult protection allegations and a 1.6% decrease in allegations from Fiscal Year 2008.

A final indication of the domestic violence rates in Kentucky is the 32,669 domestic violence related crisis calls received by Kentucky Domestic Violence Association member programs in Fiscal Year 2009.<sup>14</sup>

## **IV. PLAN PRIORITIES AND APPROACHES**

### ***A. PROJECT GOALS AND OBJECTIVES***

**GOAL 1: REDUCE THE NEGATIVE EFFECTS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, DATING VIOLENCE, AND STALKING ON VICTIMS IN ALL REGIONS OF KENTUCKY.**

***Objective 1: Award at least 30% of the annual VAWA S.T.O.P. allocation to victim service providers through a competitive application process.***

**Strategies**—When funds are available:

1. Prioritize projects that deliver continuity of services within communities, particularly state-designated domestic violence programs within the Kentucky Domestic Violence Association, rape crisis centers within the Kentucky Association of Sexual Assault Programs, and legal aid providers within the Legal Aid Network of Kentucky.

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<sup>12</sup> Kentucky State Police 2009 Crime in Kentucky Annual Report

<sup>13</sup> Involving spouse, ex-spouse, and paramour

<sup>14</sup> Kentucky State Police 2009 Crime in Kentucky Annual Report

2. Support the creation and expansion of Sexual Assault Nurse Examiner programs (SANE) and Sexual Assault Response Teams (SART) in regions where these are not currently available.
3. Support projects that have viable plans to assure accessibility to victims who are Limited English Proficient, have undocumented, immigrant, or refugee status.

**Objective 2:** *Support initial and ongoing skills training opportunities for 100% VAWA-funded victim service providers throughout the state.*

**Strategies:** When funds are available:

1. Partially fund an Annual Conference sponsored by AppalRed (Eastern Kentucky) and the Kentucky Domestic Violence Association and Kentucky Association of Sexual Assault Programs' *Ending Sexual Assault and Domestic Violence Conference*.
2. Support portions of applicants' proposals that allow for travel and training expenses to regional and local training for victim service providers.
3. Communicate national and virtual training opportunities to subgrantees, particularly those with no cost or that provide scholarships for travel and/or registration fees.

**GOAL 2: IMPROVE CRIMINAL JUSTICE AND CIVIL LEGAL RESPONSES TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, STALKING, AND DATING VIOLENCE.**

**Objective 1:** *Award at least 25% of the annual VAWA STOP allocation to law enforcement projects through a competitive application process.*

**Strategies:** When funds are available, fund law enforcement projects that<sup>15</sup>:

1. Promote best practices in law enforcement responses to immigrant victims in keeping with provisions of the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. No. 106-386);
2. Provide generally accepted forms of language assistance for Limited English Proficient victims;
3. Promote increased knowledge and best-practice response among law enforcement about stalking;
4. Support technical assistance, training, equipment and personnel costs associated with increasing service of protective orders; and
5. Support technical assistance, training, equipment and personnel costs associated with increasing arrest rates for violation of protective orders.
6. Otherwise support law enforcement efforts to comply with new changes to Kentucky Law relating to protective orders as revised by passage of HB 1<sup>16</sup> in the 2010 Kentucky General Assembly.

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<sup>15</sup> These additional priorities and considerations were included in the Press Release announcing the release of VAWA STOP applications for funding (available at <http://justice.ky.gov/NR/rdonlyres/91182963-3FA1-4ADC-8C69-ADA7DFE60A3D/0/2011VAWAPressRelease.pdf>)

<sup>16</sup> See Attachment 1 for more information about HB 1.

**Objective 2:** *Award at least 25% of the annual VAWA STOP allocation to prosecution projects through a competitive application process.*

**Strategies:** When funds are available, fund prosecution projects that:

1. Provide personnel and related costs for specialized prosecutors of domestic violence and/or sexual assault.
2. Provide personnel and related costs for prosecutor-based advocate positions.

**Objective 3:** *Award at least 5% of the annual VAWA STOP allocation to court projects through a competitive application process<sup>17</sup>.*

**Strategies:** When funds are available:

1. Provide personnel and related costs for court-based advocates assisting petitioners for protective orders.
2. Provide personnel costs for an AOC point of contact.

**Objective 4:** *Support initial and ongoing skills training opportunities for 100% of VAWA-funded law enforcement, prosecution, and court personnel throughout the state.*

**Strategies:** When funds are available:

1. Partially fund an Annual Conference sponsored by AppalRed (Eastern Kentucky) and the Kentucky Domestic Violence Association and Kentucky Association of Sexual Assault Programs' *Ending Sexual Assault and Domestic Violence Conference*.
2. Support portions of applicants' proposals that allow for travel and training expenses to regional and local training for victim service providers.
3. Communicate national and virtual training opportunities to subgrantees, particularly those with no cost or that provide scholarships for travel and/or registration fees.

## ***B. PREVIOUS IMPLEMENTATION PLANS***

### **SIGNIFICANT CHANGES IN SCOPE**

The scope of previous implementation plans has not significantly changed. The general goals of previous years remain the same: reduce the negative effects of domestic violence, sexual assault, dating violence, and stalking on victims in all regions of Kentucky and improve criminal justice and civil legal responses to domestic violence, sexual assault, stalking, and dating violence. However, this

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<sup>17</sup> The Kentucky Justice and Public Safety Cabinet Grants Management Branch will work with the IPC and AOC to plan use of the 5% set aside strategically. Please see Attachment 2 for more information about Kentucky's initial plans from the National Leadership Summit on State Court Responses to Domestic Violence

implementation plan seeks to propose specific objectives and strategies to meet outlined goals and objectives, and to more closely conform to the STOP Implementation Plan Tool provided by the Office on Violence Against Women.

### ***C. PRIORITY AREAS***

Kentucky's goals and objectives were outlined in [Part A of this section](#). Generally, GMB has awarded, and intends to continue awarding projects that:

- provide victim services **through state-designated domestic violence or rape crisis programs and regional legal aid providers**;
- **fund specialized units of law enforcement and prosecution** to address violence against women through appropriate criminal prosecution or civil protection orders; and
- **provide training and technical assistance** for law enforcement, prosecution, courts, and victim service providers to ensure responses to violence against women statewide are best-practice, sensitive to victims' needs, and hold perpetrators accountable.

Funds will be distributed across law enforcement, prosecution, courts, victim services, and discretionary allocation categories as follows:

Law enforcement: at least 25%  
Prosecution: at least 25%  
Victim Services: at least 30%  
Courts: at least 5%

Discretionary funds (15% of total allocation) will be used for multi-disciplinary projects that do not fit into another category, and to supplement other project categories where allocated funds are not sufficient to both ensure continuity of services and an increasing shift towards geographically equitable distribution of funds. A full discussion of how subgrant amounts will be based on the populations and geographic areas to be served can be found in [Section IV, Part D](#).

### ***D. GRANT MAKING STRATEGY***

#### **GENERAL PROCESS**

**Application.** Applications may be obtained from the Grants Management Branch's website, [www.justice.ky.gov/departments/gmb](http://www.justice.ky.gov/departments/gmb). The eGMS system provides access to an application form, program and financial guidelines and other pertinent information needed to prepare the application.

**Application Procedure.** Applications for each program must be submitted via Grants Management Branch's electronic grants management system within the required time frame. VAWA STOP applications are generally available from September through mid-October, for a 6 week period.

**Application Content.** In order for an application to be accepted by the Grants Management Branch as complete, the following material/information must be included:

- Completed agency and program overview information;
- Statement of the problem, goals and objectives, project narrative, performance indicators and prior project outcomes;
- Copy of the last completed audit of the applicant agency (including any OMB Circular A-133 information), if applicable;
- Detailed project and budget narratives;
- Equal Employment Opportunity Certification;
- Debarment and Suspension Certification - (Subrecipients are not allowed to sub-contract with any party which is debarred or suspended from participation in state or federal assistance programs);
- Lobbying Certification;
- Letters of support demonstrating collaboration with other service providers in implementing proposed project;
- Drug-Free Workplace Certification - (Subrecipients are not required to submit a drug-free workplace certification; however, the Kentucky Justice and Public Safety Cabinet highly recommends that all applicants have a drug-free workplace plan in place.); and
- Limited English Proficiency service provision plan (LEP Plan) – (Applicants are required to submit certification that services will be provided to Limited English Proficient individuals, with necessary accommodations (i.e. interpretation services, translation, etc.), and a plan for ensuring compliance.

**Application Review Process.** When a completed application has been submitted, it undergoes programmatic and financial review. Applications are reviewed by appropriate GMB staff and also by an independent review committee of subject matter experts using set review criteria and assigned point values specific to the program.

Programmatic review of each application also considers the following:

- Eligibility of applicant;
- Eligibility of the project design;
- Eligibility of the program area;
- Conformity to program strategy;
- Extent of need for the project/program;
- Measurable goals and objectives;
- The plan of operation;
- Qualifications of key personnel;
- Prior-year funding;

- Evaluation plan; and
- Assessment of previous project results.

Financial review of each application considers the following:

- For federal grants, allowability in accordance with the current Financial Guide, Office of Justice Programs (<http://www.ojp.usdoj.gov/financialguide>), Office of Safe and Drug Free Schools and Communities (<http://ed.gov/policy/fund/reg/edgarReg/edgar.html>) Post Award Requirements, and others as applicable;
- Allowability under the program area;
- Allowability in accordance with Kentucky statutes and regulations;
- Sufficiency and allowability of match;
- Budget and cost effectiveness;
- Adequacy of resources;
- Evidence of financial stability;
- Past performance regarding timely submission and accuracy of reports;
- Deobligation of funds in previous funding years; and
- Whether the agency has met the OMB circular A-133 audit requirements when required, as well as the consideration of other factors including, but not limited to those outlined in 28 CFR Part 66, where applicable.

Following the initial review and scoring of the application, GMB may request additional information or explanation from the applicant in order to complete the review of the application. Notification may be in the form of a system-generated message, written letter, email, or telephone call. Failure to respond in the time frame specified may result in the application not being further considered for funding during that application period. Responses to requests for follow-up information will be used to determine additional scoring consideration to justify the minimum required for funding.

An averaged score is determined from each reviewer's results, based on the criteria set forth here. Applications receiving an initial score of less than 65 (on a 100 point scale) will not be contacted for follow-up information; applications receiving a final score of less than 70 (on 100 point scale) will not be funded. Upon conclusion of the application process, applicants may request copies of their scores and summarized reviewer comments. Such requests should be sent, in writing, to GMB.

Upon final review of the application, GMB shall recommend one of the following actions:

- Rejection of the application;
- Approval of the application; or
- Approval of the application with modifications or additional special conditions.

Recommendation by GMB shall be made to the Secretary of the Kentucky Justice and Public Safety Cabinet. Final approval of all grant applications rests with the

Secretary and/or the Governor of the Commonwealth, who will provide GMB with approval to proceed with final funding decisions and actions.

**Application Approval.** The application is considered an approved grant upon the signing of an Award Letter and Statement of Action Grant Award by the Secretary of the Cabinet or his/her designee, and return receipt of the Statement of Action Grant Award by the grantee's Authorized Representative (e.g.; Chief Executive Officer).

The standard award period for VAWA STOP grants is one year, from January 1-December 31.

## **GEOGRAPHICALLY EQUITABLE DISTRIBUTION**

The Kentucky Justice and Public Safety Cabinet, Grants Management Branch (GMB) runs a competitive application process (see previous section for details), during which an applicant defines the problem to be addressed, including the size and scope of the problem in their area using the most current population and crime data available. Applicants are asked to describe what other services are available to victims in their area or jurisdiction, and why those services are inadequate to meet the needs of victims. This information is used to help make a determination if, or what level of, funding should be awarded to an applicant.

The GMB retains discretion to approve, adjust, or deny an award based on a number of factors, including helping promote federal funding priorities, such as ensuring geographically equitable distribution of VAWA funds.

## **TECHNICAL ASSISTANCE**

Technical assistance is provided to subgrantees and potential applicants in a variety of ways. Potential applicants may request technical assistance on development of their problem statement, goals objectives and performance measures, project activities, budget, or use of the online application before a press release is issued announcing the availability of applications. As well, applicants may obtain a summary of grant reviewer comments after award decisions are made to improve future applications.

GMB seeks ways to provide ongoing training to subgrantees on proper grants management. The Kentucky Domestic Violence Association, for example, has asked GMB to partner with them in 2011 to provide financial management training to its member domestic violence programs. As well, GMB continues to be available for various conference presentations and awardee meetings to address specific grant management issues, as needed.

## ***E. UNDERSERVED POPULATIONS***

Kentucky approaches its responsibility to prioritize services to underserved populations in a multi-pronged approach. For the purposes of VAWA STOP grants, the Kentucky VAWA STOP program clarifies its definition of underserved victims to be individuals living in rural isolated communities, most particularly in the Appalachian belt of Kentucky, undocumented immigrants, and victims of sex trafficking. These are defined using available population data and results of formal and informal needs assessments performed by a variety of victim service and criminal justice agencies in Kentucky.

Most basically, each electronic application “packet” for VAWA grant funds contains a set of Guidelines and Instructions, updated yearly, that include an overview of federal and state VAWA STOP priorities, program and financial guidelines, and application instructions. These guidelines contain the standard list of federal priorities, which include providing culturally specific services and services benefiting underserved populations. As well, to specifically better reach undocumented immigrant populations, GMB has a requirement that each application must include an “LEP” plan, which should outline the applicant agency’s commitment to and plan for provision of services to all victims in their primary language.

The current composition of the IPC ensures representation of these groups is present during discussions of state-wide funding needs and trends. The state domestic violence and sexual assault coalitions both represent programs in Eastern Kentucky, and have been instrumental in identifying increased demand for services among sex trafficking victims in recent years. The Kentucky Domestic Violence Association (the state domestic violence coalition) additionally sends a representative of its Battered Immigrant Women Project to serve on the committee.

Though award decisions have not been finalized for the award period beginning January 1, 2011, current projects benefiting underserved communities are outlined in Table 4, below.

**Table 5**

<b>Award Number</b>	<b>Implementing Agency</b>	<b>Project Abstract</b>
VAWA-2009-B.R.A.S.-00073	Barren River Area Safe Space, Inc.	VAWA funding is requested for 2 bi-lingual (Spanish/English and Bosnian-Serbian/English) Domestic Violence Advocates in order to continue to provide services in 2 of the 10 counties in our service area. Victims will be able to take the steps needed to reduce barriers to safety, secure appropriate resources, seek legal protection, develop safety plans and increase self-sufficiency. Advocates assist victims with contacting law enforcement, navigating the legal system, and immigration assistance.
VAWA-2009-Appalach-00081	Appalachian Research and Defense Fund, Inc.	The Domestic Violence REAP project is dedicated to providing survivors of domestic violence with the support and advocacy necessary to achieve freedom from abuse. The Project will use a holistic approach to addressing the obstacles faced by victims. Attorneys will provide legal representation along with a case manager who will provide support services. It will also develop an educational component to enhance community services and to empower and educate victims about their rights.

VAWA-2009-Catholic-00074	Catholic Charities, Inc.	Catholic Charities Immigration Legal Services (CCILS) seeks to continue to legal representation to address the widespread problem of immigrant victims of domestic violence who do not have access to competent and affordable immigration legal assistance under VAWA. In addition to providing direct services, CCILS seeks to increase knowledge and promote consistent practices with other agencies, such as law enforcement, the judicial system, and service providers through collaboration and education.
VAWA-2009-Divison-00061	Division of Violence Prevention Resources	The VAWA Staff attorney will assist victims of violence against women and resolve systemic problems statewide through technical assistance, training, development of resource materials and training curriculum and collaboration with other agencies. Work will also fill a need for particularized legal knowledge of violence against immigrant women and human trafficking.
VAWA-2009-Legal Ai-00052	Legal Aid of the Bluegrass	LABG will provide legal assistance to survivors of domestic violence in the Northern Kentucky, Bluegrass, FIVCO, Gateway and Buffalo Trace ADD counties. The legal assistance that the project attorneys provide includes but is not limited to representation in court, counsel, advice in DVO proceedings including enforcement per KRS 403.715 et. seq., helping survivors with immigration matters, filing criminal charges when appropriate, and providing referrals to other helping agencies.
VAWA-2009-Rowan Co-00098	Rowan County Sheriff	The Domestic Violence Enforcement Unit will serve emergency protective orders issued by Rowan District Court in Eastern Kentucky as soon as possible after issuance. The enforcement officer will interview victims, witnesses and the offender in each case. The enforcement officer will coordinate victim services between the victim and the local service agencies. The enforcement officer will also coordinate between the victim and the court system.
VAWA-2009-Safe Har-00065	Safe Harbor of Northeast KY, Inc.	Our COC Advocate begins working with clients while they are in shelter in Eastern Kentucky. She develops a service & safety plan that fits the needs of each victim. She makes contact soon after their departure. Our COC works very closely to make sure that the client safety is maintained & they have a strong support system with us. We invite victims back to attend groups, therapy and referrals. This position allows us to provide a strong support system for victims as they leave shelter for as long as needed.
VAWA-2009-The Cent-00050	The Center for Women and Families	The CWF provides a fully integrated program to address the needs of people who are the victims of domestic violence and sexual assault, with the goal of helping them achieve an empowered and self-sufficient life. This application is a request to support The Center's residential services for multi-lingual victims. A bi-lingual Family Advocate, with access to In Every Language, provide direct support and services to residential clients of The Center's emergency shelter in downtown Louisville.
VAWA-2009-Williamsburg-00077	Williamsburg Police Department	The Victim Advocate Office is a division of the Williamsburg Police Department and will serve 95% of all protective orders issued in the Whitley County area.

## ***F. BARRIERS TO IMPLEMENTATION***

Under existing policies, procedures, and practices, new projects are often not possible unless significant increases in federal awards occur in a given year. Thus, awarding grant funding to agencies with new projects is sporadic. GMB is committed to balancing continuity of services available throughout the Commonwealth while remaining committed to VAWA STOP's priority of innovation and geographically equitable distribution of funds.

Access to other states' implementation plans may assist us in generating ideas for how other states best utilize limited resources, while progressively achieving federal funding priorities.

## ***G. MONITORING AND EVALUATION***

### **MONITORING POLICY**

**Desk Monitoring:** This includes a review of the financial and program reports submitted by the recipient/subrecipient on a quarterly and/or monthly basis. Questions and concerns identified by GMB staff may result in requests for additional information, corrections on program or financial reports, or the exclusion of items not reflected in the approved budget. Additional back-up documentation may be requested to support program and financial reports at GMB's discretion. It is the responsibility of the recipient/subrecipient to provide requested information and corrections on a timely basis, or risk delayed payments or other consequences. Every recipient/subrecipient will receive at a minimum one comprehensive financial desk monitoring per annual grant award (encompassing at least two months, if submitting monthly financial reports). At GMB's discretion, additional desk monitoring may be conducted if circumstances warrant. A full financial desk monitoring will include submission of all supporting financial documentation (e.g., timesheets, receipts, inventory reports) corresponding to all expenses claimed for the period.

**On-Site Monitoring:** Grants Management Branch conducts financial and program on-site monitoring on a periodic and as needed basis. Every recipient/subrecipient will receive an on-site visit no less often than every three years, although different grant programs may maintain different schedules. Certain recipients/subrecipients may receive more frequent visits if circumstances warrant.

Financial monitoring will include, but not be limited to, comparison of recipient/subrecipient financial reports with general ledgers to determine that claimed expenses have been charged to the proper accounts and that proper documentation exists to support claims for personnel, travel, etc., and that equipment, if purchased, has been inventoried and is being used for the stated purpose. Additionally, the agency's overall financial internal controls and policies and procedures may be reviewed and recommendations made if appropriate or necessary. Recipients/subrecipients receiving annual awards less than minimum thresholds established per grant program may not be subject to on-site financial monitoring only.

Program monitoring will include, but not be limited to, discussion concerning the program operation, any problems or concerns associated with the program, and verification of information reported on the program monthly/quarterly reports. Programs providing direct client services are subject to client file review, and should maintain appropriate releases of information to allow same.

A written report is completed for all formal site visits, and placed in the recipient/subrecipient's GMB file. Additionally, results of the monitoring visit are shared with the recipient/subrecipient, with deficiencies and recommendations. Follow-up is required and provided as necessary.

### **EVALUATION POLICY**

It is the goal of the Justice and Public Safety Cabinet to ensure all grant monies disbursed to state and local agencies and not-for profits have been allocated and spent properly, based on guidelines set forth by the Cabinet and funding source.

Any program that has received funding from the Justice and Public Safety Cabinet may be subject to a performance review by GMB staff. Program evaluation may include, but not be limited to: discussion concerning the program operation; discussion of set measurable outcome goals implemented along with the grant; and quantifiable results showing justification for receiving future grant monies.

All grant programs in the Justice and Public Safety Cabinet will incorporate program evaluation components into their application guidelines.

## Attachment 1

# Overview of HB 1 As passed during the General Assembly Session 2010

HB 1 amends Kentucky's Domestic Violence Protective Order Statute to establish procedures for the Courts to utilize Global Positioning Monitoring Systems to track the movements of respondents, as well as making other changes to Kentucky's domestic violence laws.

**Section 1** of HB 1 amends the definition of "family member" as used in the statute to include a "grandparent" and "any person living in the same household as a child" (if the child is the alleged victim). The bill removes "related by consanguinity or affinity within the second degree." It also adds a definition of "global positioning monitoring system."

**Section 2** (and **Section 5**) modifies both the emergency protective order and the domestic violence protective order to:

- Add a provision restraining the petitioner from "going within a specified distance of a specifically described residence, school or place of employment of the petitioner, minor child of the petitioner, family member, or member of an unmarried couple protected in the order."
- Add a provision restraining the respondent from approaching the petitioner or a minor child of the petitioner within a distance specified in the order, not to exceed five hundred feet.
- Modify the section of the current law that allows courts to enter "any other order the court believes will be of assistance in eliminating future acts of violence" to prohibit courts from ordering respondents to use global positioning monitoring systems.

**Section 2** also allows for automatic reissuance of emergency protective orders. Emergency protective orders are only valid for two weeks or until a full hearing is held to determine whether or not to issue a domestic violence protective order. HB 1 allows the emergency protective order to be automatically reissued for up to 6 months without requiring the petitioner to return to court every two weeks to request that the order be reissued (the petitioner is only required to attend the first hearing after the emergency protective order is initially issued). At the end of 6 months, the order will be dismissed without prejudice unless the petitioner files for a new emergency protective order. The emergency protective order may remain in effect for up to two years if the respondent is not served.

**Section 3.** Prior to the Domestic Violence Protective Order hearing, the petitioner or the respondent (or the court on its own motion) may request that the court obtain and consider (in determining what sanctions to impose):

- The respondent's criminal history (in Kentucky)

- History of protective orders issued to the respondent and record of compliance

**Section 4** of HB 1 allows the court to suggest, after reviewing the information above, that the petitioner meet with the county attorney to discuss the possibility of filing criminal charges (the court shall explain to the petitioner that contacting the county attorney is voluntary.)

**Section 5** (see **Section 2**)

**Section 6** requires that all testimony at any hearing held under the Domestic Violence Protective Order statute be taken under oath. The section also requires the court to allow the petitioner to request that the respondent be restrained from going to or within a specified distance of a specific residence, school or place of employment. The petitioner must give the court an explanation for/benefits of restraining the respondent from each location. The court shall also give the respondent an opportunity to provide the court with any objections/concerns about being restrained from any location. The court cannot restrain the respondent from going to or near any location where there is not a “specific demonstrable danger to the petitioner, minor child of the petitioner, family member or member of an unmarried couple protected in the order.”

**Section 7** of HB 1 allows the court to require a respondent to wear a global positioning monitoring system if he/she is determined during the course of a hearing to have committed a “substantial violation” of a domestic violence protective order. Substantial violations include: assault, menacing, terroristic threatening, stalking, wanton endangerment, kidnapping, a sexual offense, burglary, destruction or damage to property, theft harassment or any felony offense.

During the hearing to determine if one of the above violations occurred, the court shall give the petitioner an opportunity to participate in the monitoring system (but cannot require the petitioner to participate), explain how the system works, the limitations of the system, the petitioner’s rights and the petitioner’s access to support services. The respondent shall have an opportunity to controvert the information provided by the petitioner or other source and to provide reasons why the monitoring system should not be used. Unless indigent, the respondent will be required to pay for both the respondent’s and the petitioner’s fees for using the system. Any respondent who has been ordered to wear a global positioning monitoring system and fails to wear the device, removes the device or tampers with or destroys the device shall be guilty of a Call D felony.

Nothing in this section shall prohibit the court from imposing any other reasonable sanction for either a substantial or other violation of a protective order.

**Section 8** establishes a procedure for modifying or rescinding the order to wear a global positioning monitoring system.

**Section 9** of HB 1 establishes the conditions allowing an individual county or a combination of counties to operate a global positioning monitoring system program.

**Section 10** requires that a county or combination of counties electing to participate in a global positioning monitoring system program shall, by ordinance, establish requirements for using the system in relationship to violations of a domestic violence protective order. This section also requires that a bidding process be used to select the entity(ies) providing the technology, that the county or counties using global positioning systems establish an evaluation process and provides a list of other allowable uses of the system.

**Section 11** relates to the use of a global positioning monitoring system for home incarceration.

**Section 12, Section 13 and Section 14** relate to the use of a global positioning monitoring system for pretrial release and pretrial diversion.

**Section 15** relates to the use of a global positioning monitoring system for probation or conditional discharge.

**Section 16** requires the Justice and Public Safety Cabinet to provide training on the subjects of domestic violence and abuse, utilizing currently available technology. All certified peace officers shall be required to complete this training at least once every two years.

**Section 17** modifies the definition of “family member” in the warrantless arrest act to correspond to the definition in the Domestic Violence Protective Order Act (see Section 1).

**Section 18** clarifies that a person entering the buildings or premises of a domestic violence shelter that is clearly marked as being a domestic violence shelter, shall be charged with a Class A misdemeanor.

**Section 19** requires the court to refer any petitioners not eligible for an emergency protective order to the county attorney.

Attachment 2

**Summary of National Leadership Summit on State Court Responses to Domestic Violence**

**November 30-December 1, 2010**

1. Notable Sessions:

Tuesday, November 30, 2010

**Presentation and Panel Discussion: *How the 5% is Currently Being Used: Overview and Promising Programs***

- New Hampshire uses 5% set-aside to fund a VAWA Point of Contact in the Courts
- New York helps fund Integrated Domestic Violence Courts (all domestic violence cases—civil or criminal—come to one court “division”)
- Florida has funded a “virtual” court training program for judges/clerks

**Breakout Sessions:**

***Louisiana Protective Order Registry***

- This presentation turned out to have little relevance to Kentucky, as their court systems are empowered to act independently from parish to parish, whereas Kentucky’s courts operate under the same sets of laws and rules.

***Alabama Data Project: Improvements in Tracking Domestic Violence Cases***

Alabama developed an interactive electronic protective order system that links a multitude of data fields on petitioners and respondents of protective orders, which develop a database that can be accessed by multiple types of stakeholders (law enforcement, prosecution, courts, social services) with varying levels of access. Seems like a further-developed version of Louisville’s E-EPO system. Interacts with multiple state databases, as well.

2. Kentucky’s State Team Meeting

These meetings, held on both Tuesday and Wednesday, were admittedly difficult. None of the Kentucky team had representatives empowered to make actual action plans for our state. Representatives were myself, Jeff Zingg (financial analyst), the Lyon County Circuit Clerk, and a Circuit Court Judge from Fayette County.

The purpose of these sessions was to recognize priority issues for our state court responses to domestic violence, which are outlined below, and to develop action steps from these, as well as identify potential challenges and solutions. A partial plan was submitted, but when contacted by the National Center for State Courts to obtain permission to publish the plan submitted, I will inform them the plan is a draft and is not authorized for distribution.

If future meetings of this sort are held, I would recommend someone in a decision-making authority attend, if possible, from our Cabinet and A.O.C.

Priority Issues Identified:

- **Clerks, deputy clerks, and judges need training on domestic violence**, which has become more sporadic with cuts to AOC's budget. Regional trainings may be the best way to realize this need, as travel funds and time restraints for clerks and judges prohibit frequent travel across the state.
  - Online training is not likely a viable option at this time, as some Clerk's offices do not have adequate space or technological resources for staff to complete the training on work time. Some judges also face these issues.
- **Local court systems are required to submit domestic violence protocols** by January 1, 2011, and there may not be enough technical assistance available from AOC to ensure these protocols are well-developed and meet the needs of most victims.
- Clerks and Judges have additional burdens of reissuing summons to petitioners with new laws about providing service to respondents. **Clerks and judges need additional guidance/training, resources (technology), and/or staff to keep up with the additional logistical burdens placed on them.**
- **In some locations, there may be duplicate advocates offering minimal services to victims** during court hearings, but few-to-no advocates available to victims at the time of filing a petition. This is a critical point at which victims need assistance, which cannot be provided by a clerk or deputy clerk.
  - STOP Administrator could assist by prioritizing projects for funding that provide court advocacy at the time of petition, rather than solely during the hearing.
- **More information is needed from AOC about local courts' needs.** The representatives attending this meeting only represented two counties of Kentucky. More systematic information is needed about local needs than is currently available.

### Potential Action Steps

While we had difficulty committing to particular courses of action around these issues, one idea was recommended and generally accepted among the participants: that an AOC Violence Against Women Point of Contact be established, with the support of VAWA STOP grant funds.

- Sara Dent and Kelly Stephens provide much of the technical assistance on domestic violence/sexual violence issues, but their workloads have doubled or tripled over the past two years and this is unlikely to change soon.
- The two participants representing the courts felt domestic violence/sexual violence was currently a big enough issue, with enough legislative change occurring, to warrant a designated staff to work on these issues.
- The VAWA 2010 allocation for Courts projects is 95,969.76<sup>18</sup>. This may be enough to fund at least a part-time designated VAW Point of Contact for AOC.

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<sup>18</sup>  $= (2,020,416 * 0.95) * 0.05$

# UPDATE

**Number 5/10**

OFFICE OF THE ATTORNEY GENERAL

Jack Conway, Attorney General

## **VIOLENCE AGAINST WOMEN PROSECUTION**

***Lana Grandon***

**Assistant Attorney General**

**Violence Against Women Specialist**

### 2010 LEGISLATIVE UPDATE

The following is the first of a series of “Update” newsletters summarizing legislation passed by the 2010 Kentucky General Assembly that impacts victims of crime and their cases specifically including victims of domestic violence and adult and child sexual assault and abuse. The complete text of HB 500 and other bills enacted in 2010 can be found at [http://www.lrc.ky.gov/record/10RS/PAS\\_L.htm](http://www.lrc.ky.gov/record/10RS/PAS_L.htm).

### **Examinations of Victims of Sexual Offenses – HB 500**

For many years Kentucky has provided, free of charge, sexual assault examinations by physicians and more recently sexual assault nurse examiners to persons who reported the crime to law enforcement and requested an exam. In 2010 the Kentucky General Assembly passed HB 500 which brought Kentucky into compliance with federal law and makes these examinations available to any individual seeking treatment as a victim of sexual assault regardless of whether or not the individual chooses to report the crime to law enforcement. The new law is designed to serve two primary purposes: (1) to improve victims access to necessary medical treatment and (2) to increase the availability of samples in delayed reporting cases. The ultimate goal is to increase both reporting and successful prosecutions.

When HB 500 takes effect this summer, Kentucky hospitals and other sexual assault examination facilities must provide examinations to victims who request such exams regardless of whether a report is made to law enforcement. If the victim chooses to have an examination but not report to law enforcement, samples must be stored for at least 90 days to allow the victim to consider filing a delayed report with law enforcement.<sup>19</sup>

Adult victims, in most cases, can now choose to have the sexual assault examination provided for by KRS 216B.400 whether or not they choose to report to law enforcement. The Kentucky Sexual Assault Response Team (SART) Advisory Committee<sup>20</sup> suggests that hospitals and other examination facilities review and revise their policies related to reporting sexual assault cases to law enforcement to insure that they reflect the current status of the law. Laws that may impact reporting policies include:

- **KRS 216B.400** Emergency care – Examinations for victims of sexual offenses (as amended by the 20110 General Assembly through HB 500)
- **502 KAR 12:010** Sexual assault medical protocol (an amendment will be proposed later this year for compliance with the 2010 amendment of KRS 216B.400)
- **KRS 620.030** Duty to report dependency, neglect or abuse (of a child)
- **KRS 600.020(1)** Definition of “Abused or neglected Child”
- **KRS 209A.030** (Duty to Report Spouse Abuse)
- **KRS 209A.020** Definitions (related to spouse abuse reporting)
- **KRS 209.030** (Duty to report abuse of disabled adults)
- **KRS 209.020** Definitions (related to abuse of disabled adults)
- **42 USC 164.512(c)** HIPPA Standard: Disclosures about victims of abuse, neglect, or domestic violence
- **42 USCS §3796gg-4** (VAWA provision requiring that exam be provided without reporting to law enforcement)

As examination facilities review policies and relevant laws, some are seeking input from county or Commonwealth’s attorneys. Guidance is frequently sought regarding how to comply with both mandatory reporting obligations and new legal mandates that allow victims to determine whether to report to law enforcement. Most institutions are aware that Kentucky law requires reporting of suspected acts of child sexual abuse and that such reports may be made to multiple agencies including the Cabinet for Health and Family Services, local or state law enforcement, county attorneys and/or Commonwealth’s attorneys.

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<sup>19</sup> Thank you to Marylee Underwood, KASAP Staff Attorney for providing valuable information for and assistance with this issue of Update.

<sup>20</sup> The SART Committee is co-chaired by the Kentucky State Police and the Kentucky Association of Sexual Assault Programs and includes representatives from the Office of the Attorney General, the Kentucky Hospital Association, Kentucky Nurses Association, Kentucky Board of Nursing and numerous other agencies pursuant to KRS 403.707. Its responsibilities include providing information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization.

Because such reports are required by law, child abuse reporting would not be prohibited by HIPAA<sup>21</sup>. However, few realize that Kentucky's laws on reporting suspected spouse abuse (see KRS Chapter 209A) or abuse of individuals who are unable to care for themselves and may be in need of protective services<sup>22</sup>, (see KRS Chapter 209), require that reports must be made to the Cabinet for Health and Family Services. In these cases reporting to law enforcement would not be required or authorized and could be considered a HIPAA violation. Detailed analysis of these issues and sample policies will soon be available from the SART Advisory Committee and through its member agencies.

Prosecutors may also be consulted regarding appropriate storage for samples collected during non-reported examinations. HB 500 provides that samples must be stored for at least 90 day. The hospital or other examination facility must either store the sample or transfer it to a designated storage facility. The SART Advisory Committee is currently working to support the development of storage systems throughout the Commonwealth that will be necessary to ensure proper storage of samples collected in non-reported cases. In some communities, law enforcement agencies are agreeing to serve as designated storage facilities. Currently systems have been established in four (4) locations in Kentucky: Lexington, Louisville, Maysville and the Northern Kentucky Region. Sample protocols for hospital-based storage and law enforcement based storage will be available soon through the SART Advisory Committee.

In addition to the more significant changes to Kentucky law related to sexual assault examinations noted above HB 500 also does the following:

- Current law permits physicians and sexual assault nurse examiners to perform the sexual assault examinations. HB 500 adds "another qualified medical professional, as defined by administrative regulation" to the list of professionals permitted to perform the exam.
- The Justice and Public Safety Cabinet in consultation with the SART Advisory Committee will now promulgate the statewide protocol under which the medical professionals will act.
- The purpose of the exam will now be two-fold: to provide basic medical care relating to the incident and to gather samples that may be used as physical evidence.

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<sup>21</sup> 42 USCS §3796gg-4; "Mandatory reporting laws: HIPAA preempts state law with few exceptions. HIPAA does not, however, preempt state law provisions that provide for the reporting of disease, injury, child abuse, death, or for public health surveillance purposes. For example, if a state law requires a hospital to report cases of child abuse to a social service agency, HIPAA would not prohibit the disclosure." National Center for Prosecution of Child Abuse, Vol. 16, Number 4, *HIPAA—Exceptions Providing Law Enforcement Officials and Social Service Providers Access to Protected Health Information*, (2003).

<sup>22</sup> Commonly referred to as the duty to report abuse of the elderly, vulnerable adults or individuals with disabilities.

- The list of professionals who may be reimbursed for their services by the by the Crime Victims' Compensation Board (CVCB) is expanded to include pharmacists, health departments and other qualified medical professionals. As with the agencies or individuals previously entitled to reimbursement from the CVCB, these individuals and agencies are also prohibited from billing the victim/patient for the examination or related services.

For additional information about the implementation of HB 500 or the SART Advisory Committee contact the Kentucky Association of Sexual Assault Programs at 502-226-2704 or [munderwood@kasap.org](mailto:munderwood@kasap.org). For additional information about reimbursement of medical providers through the Crime Victims' Compensation Board contact the CVCB at 502-573-2290.

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Please send all comments and suggestions for future issues of Update to:  
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