



Pre-Trial Release and Domestic Violence Concerns

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“The question of pretrial conditions in domestic violence cases is one of balance, balance between constitutional rights of the accused and protection of victims of crime, between safety and accountability, between ensuring appearance at trial and protecting others from harm, between a consistent response and the unique aspects of each case, each person, and sometimes the balance between space in the jail and the goal of safety”¹

– Jane M. Sadusky, Battered Women’s Justice Project, 2006

⁷ Sadusky, Jane M. 2016. Pretrial Release Conditions in Domestic Violence Cases: Issues and Context. *Battered Women’s Justice Project*. Retrieved from: https://www.bwjp.org/assets/documents/pdfs/pretrial_release_conditions_domestic_violence_cases.pdf

The Need for Centering Survivor Safety

- The most lethal time in an abusive relationship is after a victim-survivor leaves or there is some form of intervention (i.e. an arrest). More than 70% of domestic violence murders happen after the victim has gotten out.²
- “While dropping off her children at daycare, Christina Franklin and her two children were shot by her estranged husband, Travis Spitler. Spitler committed suicide. Franklin died on the scene. Her children survived. Before this incident, Spitler was arrested and released from jail on a domestic violence charge against Franklin. Franklin’s application for a protection order had been denied.” – NCEDSV 2016 Homicide Report³
- In 2017 in Nevada there were 19 domestic violence incidences that resulted in 28 death, and in 2016 there were 24 domestic violence incidents that resulted in 33 deaths.⁴
- Nevada consistently ranks in the top 5 states for women murdered my men. Most recently in 2017, Nevada ranked 4th.⁵

² STAND! For Families Free of Violence. Domestic Violence Victims. Retrieved from: <http://www.standffov.org/statistics>

³ Nevada Coalition to End Domestic and Sexual Violence. 2016 Homicide Report. Retrieved from: https://drive.google.com/file/d/0B-wUwMfE_GhPZ2NjdENXUS1mOTQ/view

⁴ Nevada Coalition to End Domestic and Sexual Violence. 2016 and 2017 Homicide Reports. Retrieved from: https://drive.google.com/file/d/0B-wUwMfE_GhPZ2NjdENXUS1mOTQ/view and https://www.ncedsv.org/wp-content/uploads/2018/12/DV-Homicides-2017_FINAL.pdf

⁵ Violence Policy Center. When Men Murder Women: An Analysis of 2017 Homicide Report. Retrieved from: <https://vpc.org/studies/wmmw2019.pdf>

Nevada History of Survivor Safety in the Context of Offender Release

- The Nevada Legislature has historically prioritized the safety of domestic violence survivors.
- [NRS 33.020 Requirements for issuance of temporary and extended orders; availability of court; court clerk to inform protected party upon transfer of information to Central Repository.](#)⁶
 - Section 8
 - Emergency/After Hour Temporary Protection Order (TPO) phone applications when an offender of domestic violence has been arrested and is in custody.
 - The protection order must be served on the offender/perpetrator while still in custody.

⁶ Nevada Revised Statutes. NRS 33.020. Retrieved from: <https://www.leg.state.nv.us/nrs/nrs-033.html#NRS033Sec020>

Nevada History of Survivor Safety in the Context of Offender Release (cont.)

- [NRS 178.484 Right to bail before conviction; exceptions; imposition of conditions; arrest for violation of condition.](#)⁷
 - Sections 7-9:
 - A person arrested for a battery that constitutes domestic violence or for violation of a domestic violence temporary or extended protection order **must not be admitted to bail sooner than 12 hours after arrest.**
 - Set bail amounts for offenders of domestic violence and violators of protection orders.

⁷ Nevada Revised Statutes. NRS 178.484. Retrieved from: <https://www.leg.state.nv.us/NRS/NRS-178.html#NRS178Sec484>

Nevada Supreme Court Cases and Pretrial Release

- Christopher Anderson vs. The Eighth Judicial District Court of the State of Nevada ⁸
 - All Domestic Violence cases are entitled to the right to a jury trial
 - Lengthened periods of time from release to trial, increasing the need to center survivor safety in pretrial release conditions.
- Jose Valdez-Jimenez vs. The Eighth Judicial District Court of the State of Nevada and Aaron Willard Frye vs. The Eighth Judicial District Court of the State of Nevada ⁹ – filed 4/9/2020
 - “Bail may only be imposed where it is necessary to reasonably ensure the defendant’s appearance at court proceedings or to protect the community, including the victim and the victim’s family”

⁸ Nevada Supreme Court. Anderson vs. District Court (City of Las Vegas). Retrieved from:

<http://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=45446&combined=true>

⁹ Nevada Supreme Court. Valdez-Jimenez vs. District Court (State). Retrieved from: <http://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=46658>

Next Steps to Ensure Survivor Safety

- Enhance education in the State regarding:
 - (1) Risk factors of various stages of the criminal and civil proceedings for justice system staff and other stakeholders and;
 - (2) How to safely and confidentially promote access to high-quality information about victims and offenders to those criminal justice personnel and others who are in a position to evaluate risk.¹⁰
- Research other states who have implement various risk/lethality assessments that shift the focus to the individual defendant instead of determining release based primarily on the alleged charged.
- Research the effectiveness of imposing additional conditions of release such as electronic monitoring of defendants, mandatory prohibition of consuming alcohol or drugs, mandatory stay-away/no-contact orders.

¹⁰ Washington Gender and Justice Commission. June 2018. Domestic Violence Risk Assessment” Report to the Washington State Legislature and Governor Jay Inslee. Retrieved from: http://www.courts.wa.gov/content/publicUpload/GJCOM/DV_Risk_Assessment_Sec8.pdf.

Recommendations for Moving Forward

The combination of domestic violence, survivor safety, and pretrial release is complicated and many unknowns exist. More research is needed before any action is taken for Nevada. The focus of the research must:

- Center and elevate survivor safety as Nevada explores bail and criminal justice reforms.
- Study different risk assessment tools and their effectiveness in the criminal justice system.
- Engage with all stakeholders across the state.

Helpful Resources for Understanding Pretrial Release and Domestic Violence

- [Trends in Pretrial Release: State Legislation.](#) National Conference of State Legislators. Amber Widgery. March 2015.
- [Domestic Violence Risk Assessment: Report to the Washington State Legislature and Governor Jay Islee.](#) Gender & Justice Commission E2SHB 1163 Work Group. June 2018.
- [Predicting Risk in Domestic Violence Cases: Making the Decision to Release or Detain Pretrial.](#) The Justice Management Institute.