

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

COOS, SS.

DECEMBER TERM, 2025

STATE OF NEW HAMPSHIRE

v.

DUSTIN MARK DUREN

Docket No.: 214-2024-CR-00028

STATE'S MEMORANDUM IN SUPPORT OF SENTENCING

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and respectfully provides this Memorandum in support of its sentencing recommendation, in advance of the defendant's scheduled sentencing hearing.

I. PRELIMINARY

1. The defendant was indicted on charges of first-degree murder (RSA 630:1-a), second-degree murder (knowing and reckless) (RSA 630:1-b), and reckless conduct with a deadly weapon (RSA 631:3). Further, the defendant was charged by criminal complaint with one count of endangering the welfare of a child (RSA 639:3). These charges relate to the defendant's fatal shooting of Caitlyn Naffziger (age: 31), and the danger in which that shooting placed their minor child, E.D (DOB: 12/02/2019). The murder of Caitlyn Naffziger occurred on February 29, 2024, inside of the defendant's home in Berlin, New Hampshire. Prior to trial, the State entered a *nolle prosequi* on the charge of first-degree murder.

2. Trial was held between October 20, 2025, and October 28, 2025. During the trial, the State and the defendant presented witness testimony. The defendant testified in his own defense and presented a case in which he claimed that he acted in defense of others when he shot

and killed Caitlyn Naffziger. On October 28, 2025, the jury unanimously found the defendant guilty of all charges.

3. A sentencing hearing is scheduled for December 11, 2025.

II. PROPOSED SENTENCE

4. Considering the facts of the defendant's crimes as set forth at trial, the jury's unanimous verdict finding the defendant guilty of all four charges before them, as well as other circumstances pertinent to sentencing and discussed *infra*, the State respectfully requests that this Court impose the following sentences:

- *Second-degree murder, knowing (Charge ID 2237508C)*: 45 years to Life in the New Hampshire State Prison, stand committed.
- *Second-Degree Murder, reckless (Charge ID 2217221C)*: The guilty finding should remain, but no additional sentence entered.
- *Reckless Conduct with a Deadly Weapon (Charge ID 2217222C)*: 3 ½ to 7 years in the New Hampshire State Prison. The State requests that this sentence be suspended, beginning immediately and ending 10 years from the defendant's release on Charge ID 2237508C, with the stand committed sentence to be served consecutively to the sentence in Charge ID 2237508C if imposed. As a condition of this charge, the State requests a no contact order as described below.
- *Endangering the Welfare of a Child (Charge ID 2217223C)*: 1 year in the House of Corrections, stand committed. This sentence to be served concurrently to the sentence in Charge ID 2237508C.

5. The State requests that the charge of Reckless Conduct have a condition of no contact as follows:

- The defendant shall have no contact with the family of Caitlyn Naffziger which includes Lori Smith, Bailey Naffziger, Heather Naffziger, and Brenda Plamondon.¹
- The defendant shall have no contact, either directly or indirectly, including but not limited to contact in-person, by mail, phone, email, text message, social messaging sites or through third parties, with E.D. and/or V.D. unless such contact is solicited by E.D. and/or V.D. of their own volition, and such

¹ Additional names may be added at the sentencing hearing.

contact is in accordance with any applicable, related agreements or Court orders governing such contact.

- Further, the defendant must comply with any court orders concerning contact with E.D. and V.D. issued by any court having jurisdiction, including any orders issued by the Minnesota Courts related to custody proceedings.

6. Additionally, the State requests the following conditions be applied to all charges:

- The defendant shall not profit in any manner for his role in committing these offenses, nor may he assign his rights to any monetary profit or financial benefit to any other person. Specifically, he may not accept any payment, enter into any contract, or sell rights regarding any book, film, television show, radio show, website, podcast, or any other writing, recording, broadcast, or internet posting relating to the murder of Caitlyn Naffziger, or to the defendant's actions therein.

7. The State has provided the defendant with a letter from New Hampshire Victim's Compensation as well as their payment records showing that there is restitution in the amount of \$12,007.69 for funeral expenses and bereavement counseling related to the murder of Caitlyn Naffziger. The State requests that the defendant be ordered to pay restitution in that amount to New Hampshire Victim's Compensation.

8. The State calculates the defendant's pretrial confinement period to be 650 days: from March 1, 2024, the date of his arrest on this case, until December 11, 2025, the date he is scheduled to be sentenced.

9. The State has attached to this memorandum, sentencing forms that reflect the terms listed above.

III. ARGUMENT

A. The facts of this case justify imposing significant sentences.

10. The sentences recommended by the State are justified by the facts of the crimes committed by the defendant. On February 29, 2024, the defendant shot Caitlyn Naffziger as she sat on the couch in his living room. He knowingly aimed his pistol at her and directed the shot

into the left side of her head. He understood that, in doing so, his act of firing the weapon would kill her. At the time that she was shot, Caitlyn was wrapped in a pink unicorn blanket, was wearing no shoes, had one foot resting on the coffee table, and was unarmed. The defendant stood between her and any exit from the home. Their oldest daughter, E.D. (DOB: 12/02/2019) was within range of the shot and in close proximity to the gun when the defendant fired.² The noise of the shot scared her and caused pain in her ear. She saw the defendant kill her mother and observed the blood on her mother's body.

11. The defendant and Caitlyn Naffziger had two children together, E.D. and V.D. (DOB: 01/17/2023). The couple separated in or around July of 2023, with both returning to Minnesota from Nevada with their children around that time. For approximately a year, they shared custody of the children and argued about it. There was no court order or otherwise documented custody agreement. The defendant resided with his parents, and Caitlyn lived in an apartment. Caitlyn worked and the defendant stayed home; this resulted in a custody arrangement wherein the defendant and his parents took custody of the children the majority of the time. The investigation showed that, on one occasion, Caitlyn reported the defendant for refusing to return the children to her custody on a date upon which they agreed.

12. In January of 2024, the defendant moved from Minnesota to Berlin, New Hampshire. He brought E.D. with him.³ On February 27, 2024, Caitlyn Naffziger flew from Minnesota with V.D. On February 28, 2024, Caitlyn and V.D. met the defendant and E.D. at a restaurant in Ossipee. The defendant then drove everyone to his apartment in Berlin. The

² The defendant testified at trial that E.D. was still on Caitlyn's leg when he fired the shot and stated that he merely held her aside with one hand while firing the gun with the other, or words to that effect. In his statement to police, he stated that he had grabbed E.D. and pulled her back before shooting

³ The investigation showed that Caitlyn told at least one family member that she hadn't wanted to let E.D. travel to New Hampshire but was afraid to say no to the defendant.

defendant had not planned on Caitlyn visiting his apartment and did not want Caitlyn in his apartment.

13. Throughout the following day, the defendant repeatedly asked Caitlyn when she was leaving his apartment. She ignored him or did not respond to his satisfaction. The defendant became frustrated, then angry. On February 29, 2024, the defendant attempted to force Caitlyn to leave his apartment without either of their children. Caitlyn refused to leave, as she had nowhere to go and no means to leave. She held E.D. in her arms while sitting on the couch in the living room. The defendant attempted several times to pull E.D. from Caitlyn's arms; he testified that he couldn't do so.

14. At trial, the defendant stated that E.D. cried out in pain.⁴ He testified that it was because Caitlyn was pulling at the child and holding her tightly while he tried to pull her away. The defendant testified that it was E.D.'s yell that caused him to walk across the room, pick up his pistol and rack the slide, readying it to fire. The defendant admitted at trial that Caitlyn saw him pick up the pistol, had to have heard him pull back and release the slide, and "tried" to ask him what he was going to do with it. He didn't answer her. He walked across the room, ripped E.D. from Caitlyn's arms with his left hand and then aimed the pistol at Caitlyn's left temple with his right, and pulled the trigger.

15. The defendant told the police that he was an expert marksman and knew exactly where the bullet would strike and what the result would be. At trial, when questioned on cross-

⁴ This testimony is not consistent with the statement that the defendant made to police on March 1, 2024, in which he never mentioned E.D. being in pain. In that statement, police asked the defendant whether E.D. was crying because she was being held forcefully or because of the argument. The defendant said that it was probably a combination and explained that E.D. "knows when something's going on." The defendant never said that E.D. yelled or cried out.

examination as to whether he was aiming his gun at the time he shot Caitlyn, the defendant stated words to the effect of “I absolutely was aiming.”

B. There are multiple aggravating factors that justify imposing significant sentences.

16. There are multiple and significant aggravating factors pertaining to the victims, the defendant, and the offense that all support the sentences sought by the State and militate against any lesser term that the defendant may request.

17. Here, it is important to start with the defendant’s murder victim. At the time of Caitlyn’s murder, she was just thirty-one years old. She expressed to family members that she was afraid of the defendant. She had told several family members of prior incidents between her and the defendant in which she had been pushed, hurt, or strangled. While there was no evidence of her fear or these statements allowed at trial, it is important to note her fears and these prior incidents in their relationship as they relate to sentencing the defendant for her murder.⁵

18. But Caitlyn was not the only victim of this crime. E.D. was just four years old when she saw her father shoot and kill her mother. Moments earlier, she had been seated in her mother’s lap. She was grabbed away then heard the gunshot which caused her to yell and hold her left ear. She screamed “loud, loud,” and complained of pain. She saw her mom bleeding. Later, E.D. asked a doctor for help with the pain in her ear and described what had happened, “[m]ommy and daddy were fighting. Daddy hurt me and mommy. Mommy had lots of blood.” E.D. was harmed by her father’s actions - she was placed in physical danger, she was injured,

⁵ In his statement to police, the defendant recounted one incident in which he had forcefully removed Caitlyn from his parents’ home by pushing her out a door. He made repeated statements that he never hit her other than that. The investigation showed that Caitlyn had left the defendant unexpectedly in 2023, refused to provide her home address to him, and expressed fear of him to several people. At trial, testimony revealed that she created a safety plan with a safe or code word before she went to his apartment in New Hampshire.

suffering pain in her ear, and she continues to endure the trauma of witnessing her mother's murder and the irreplaceable loss of her mother.

19. V.D. has also suffered from the trauma of her mother's murder. V.D. was only one year old when the defendant killed Caitlyn. When the defendant fired the fatal shot, V.D. was in her car seat, in the hallway just outside the living room doorway. She was close enough to hear the argument and to hear the shot but was not in the room and thankfully did not witness her mother's murder. Regardless, because of the defendant's actions, V.D. will grow up without a chance to know her mother or to form lasting memories of her. The pain of this loss is something that V.D. will have to manage throughout her life.

20. Turning next to the aggravating circumstances of the defendant's act of murder. The defendant *had a motive* for killing Caitlyn. While he argued that he shot Caitlyn because he was stopping her from kidnapping the children - this purported justification was inconsistent with the physical evidence, his voluntary statement to the police, his in-court testimony, and common sense, and it was rejected by the jury. Instead, the evidence showed that the defendant murdered Caitlyn simply because he was angry that she refused to leave his apartment and refused to comply with his demands regarding the custody of their children. Instead of resorting to any of the various non-lethal, legal means available to him to resolve their dispute, the defendant instead resorted to homicidal violence.

21. The defendant *used a deadly weapon* to kill Caitlyn. He shot and killed her with his Beretta 9mm handgun, a weapon that he kept on his person or in close proximity to him at all times, and a weapon that he knew how to use with expert precision because of his military training. He executed Caitlyn with a single shot from that weapon, aimed directly at her left temple – a shot designed to kill. The shot was fired from at least three feet away, indicating that

the defendant was not engaged in a struggle with Caitlyn at the time he shot her, and refuting his testimony about the circumstances of the murder.

22. The injury to Caitlyn's head caused damage to her brain, *a vital organ*. The bullet passed through the scalp, the left temporal skull, dura matter, cerebrum, basal ganglia, and thalamus causing multiple skull fractures and hemorrhages. As a further result of these injuries, she suffered bruising around her right eye and she aspirated blood into her lungs.

23. The defendant's homicidal act occurred in the privacy of his apartment, a place where his *acts would not be detected and others would not be present*. His only witnesses were E.D. and V.D., children who had no one to tell or could not yet speak for themselves. After he murdered Caitlyn, he did not call for assistance, did not report the shooting – rather, he packed his car, took their children, and fled. He left Caitlyn on the couch, in the dark for hours.

24. The defendant's act of flight shows that he initially *attempted to conceal the killing*. He turned out his lights, locked his doors, and drove away from his own home. The defendant admitted at trial that after shooting Caitlyn, he did not check on her to see if she was still alive and did not provide any medical assistance. It was over five hours before he decided to tell anyone about what had happened and even then - he contacted his parents who lived over a thousand miles away and did not call 911 for police or medical assistance.

25. The defendant *made statements* after the homicide. In those statements, he confessed to his parents that he had shot and killed Caitlyn, and then he confessed to the police that he had shot and killed Caitlyn. In his statement to the police, he stated that he murdered Caitlyn because she wouldn't leave and because she was not letting go of E.D.⁶ At no point, did the defendant ever tell anyone that he killed Caitlyn because he believed she was kidnapping the children. Even at trial, the defendant testified that he merely had "suspicions" that Caitlyn was going to take the children and leave with them.

26. Also aggravating is the defendant's attempt to pass blame for this murder onto Caitlyn Naffziger, the victim. In his statements and his testimony, he attempted to shift blame onto her for ignoring his requests for her to leave without their children, for holding E.D. and refusing to let go when he was trying to pull at the child. Caitlyn is not to blame for the defendant's actions. The defendant is solely and wholly responsible for the murder of Caitlyn Naffziger.

27. The defendant did not kill out of necessity, or to protect life. Instead, he killed a defenseless woman out of anger. There were any number of non-lethal alternatives by which the defendant could have expressed his anger or attempted to resolve his dispute with Caitlyn. The defendant did not have to shoot Caitlyn at all, much less in the head; Caitlyn was sitting,

⁶ At trial, the defendant testified to several statements that he attributed to Caitlyn during their argument on February 29, 2024. He testified that, during that argument, Caitlyn demanded a large amount of money from him, demanded that he sell his car and give her the money, told him that he would never see their children again – this testimony was inconsistent with his voluntary statement to police. In his voluntary statement to police, the defendant said that during the February 29, 2024, argument, Caitlyn told him that she wasn't going to leave, that she said, "I'm staying here, and I'm not leaving." He further said that Caitlyn told him that she was going to call the cops and get the kids taken away from him; he never mentioned a demand for money. Further, the defendant told investigators that he had considered selling his car for \$4,000 to pay for a lawyer and other needs; this statement is consistent with the investigation which showed the defendant and his mother engaged in a text message conversation about selling the car for \$4,000.

motionless and unarmed, on the couch. An expert marksman, the defendant could have shot her in the arm or the leg. Trained in hand-to-hand combat through the Marine Corps Martial Arts Program (MCMAP), the defendant could have overtaken Caitlyn without using any weapon; he could have simply taken E.D. from Caitlyn and then not shot her at all. He could have called the police.⁷ Instead, the defendant shot the mother of his children in the head.

28. Finally, the trauma and associated trauma responses suffered by E.D. and V.D. because of their father's murder of their mother should be considered an aggravating factor in sentencing. The defendant murdered Caitlyn in the presence of both children. E.D. was in close proximity to the gun when the defendant fired it and was forced to witness her mother's murder. She saw her mother's wound and the blood that flowed from it. E.D. was old enough to recognize what had happened and to explain it to investigators and family members. E.D. was and is old enough to hold that memory for the remainder of her life – to hold onto the last image of her mother as she sat dead and bleeding on the couch. V.D. did not witness the murder but she heard it and she suffers from the unimaginable impact of the loss of her mother. While the loss of a parent to murder is undoubtedly a horrific, tragic, and traumatic event for anyone, especially a young child - the murder of a parent in the presence of that child is unquestionably worse. The attendant emotional and psychological trauma of their father's actions will remain with E.D. and V.D. for years and will shape the course of their lives.

⁷ At trial, the defendant testified about an incident several years prior to the murder, in which a stranger attempted to break into his home in Nevada at night. Although the defendant was armed, and the unknown intruder banged on the door and windows for approximately half an hour, the defendant did not fire – rather, he called the police and waited for them to arrive.

C. Victim Impact

29. Next with respect to the State's proposed sentences is victim impact. Victim impact is a factor that the Court should consider in sentencing. See RSA 21—M:8-k, II(p). This proper consideration is high, and victim impact also supports the prison terms sought by the State. Victim impact is always a significant factor in any criminal case, but perhaps none more so than when one of the committed offenses is murder and where a child has been endangered, injured, and traumatized by the defendant's actions.

30. The State will not attempt to describe in this memorandum the irreparable damage caused to family members and friends who cared for and lost Caitlyn Naffziger through the defendant's actions nor the irreparable and continuing harm caused to E.D. for having witnessed the murder. The loss suffered by both E.D. and V.D. and its impact on their young lives is incomprehensible.

31. The State anticipates that the Court will hear about some of the trauma this family and their friends has suffered because of the defendant during the sentencing hearing on December 11, and through letters submitted prior to the hearing. The State anticipates that the Court will take such statements into account, among other factors, when deciding upon the defendant's ultimate sentences for the life that this defendant took and for the one that he altered forever. The State expects that the family members and friends of Caitlyn Naffziger, E.D., and V.D. will ask that this Court impose greater sentences than those sought by the State.

32. Thus, the many aggravating circumstances proffered by the State, as well as victim impact, support the sentences recommended by the State.

D. Mitigating Factors

33. The State has reviewed mitigating factors. As to circumstances of the victim and circumstances of the offense committed, the State can identify nothing legitimately mitigating of the defendant's actions in killing Caitlyn Naffziger. There was no indication at trial or from the investigation, that the defendant was suffering from a drug or alcohol dependency that played any part in the murder. As a veteran, the defendant was diagnosed with non-combat related Post-Traumatic Stress Disorder (PTSD) and with Major Depressive Disorder (MDD).

34. According to a defense expert witness who produced a report and was deposed, but did not testify at trial, at the time of the murder, the defendant's MDD was in remission. There was no evidence or argument presented at trial to indicate that the defendant's PTSD played a role in his actions on the day of the murder. To the contrary, beyond stating that the defendant had PTSD, the defense presented no evidence and made no mention of that condition having an impact on him at the moment of the murder. Further, the defendant chose not to present testimony from the defense expert witness concerning the general impact PTSD could have on a person. Because PTSD did not play a role in the trial or in the presented defense, the Court should not consider it as a mitigating factor for sentencing. As the jury unanimously found, the defendant acted with specific and knowing intent to aim his pistol and shoot Caitlyn in the head.

35. The defendant does not have a prior criminal record. Although the existence of a relevant criminal history certainly can be an aggravating circumstance for sentencing, the converse is not necessarily true. That is, the lack of a criminal record should not necessarily constitute a mitigating circumstance at sentencing. After all, some offenses are so egregious that the fact that they may be an offender's first and only criminal involvement simply is immaterial.

This case, where the defendant murdered the unarmed mother of his children and endangered one of his children falls into such a category. Indeed, the seriousness of the crimes that the defendant committed, as well as the attendant aggravating circumstances, undermine any argument for leniency that he may make that these charges are his first criminal convictions.

36. The defendant has shown no remorse for having killed Caitlyn Naffziger and has not demonstrated any acceptance of responsibility for his actions. In his statement with police, just 10 hours after the murder, the defendant laughed and smirked when discussing where the bullet struck Caitlyn's head. At no time during the interview, which lasted over two hours, did he express remorse for killing Caitlyn – in fact, when he was asked if he had regrets about what had happened, he asked if the detectives meant shooting her and told the detectives that it seemed like a “trap question.”

37. In short, the aggravating circumstances here are numerous and weighty and support the State's requested sentences. Any mitigators advanced by the defendant or on his behalf do not warrant additional leniency beyond that provided in the State's requested sentences.

E. The State's Proposed Sentence is Justified Because It Serves the Goals Of Sentencing Under New Hampshire Law

38. The State's proposed sentences are justified because they consider and meet all the appropriate goals of sentencing. The three-part test for sentencing is well-settled under New Hampshire law. “The legislature has vested in the trial court the ability to adapt sentencing to best meet the constitutional objectives of punishment, rehabilitation and deterrence.” State v. Henderson, 154 N.H. 95, 97 (2006). No single factor is essential to justify a particular sentence in a particular case, so long as the trial court considers all three goals. As the New Hampshire Supreme Court expressed nearly half a century ago, but with equal force today,

[t]he real purpose of all sentencing is to reduce crime. This theoretically can be done by rehabilitating the individual defendant so [s]he will not offend again. Another way is to punish the individual defendant in the hope that [s]he will be deterred from repeating [her] crime. Moreover, by punishing the individual defendant, others may be deterred from committing crimes. Whichever sentence is thought to be likely to reduce the most crime is the proper sentence to impose. State v. Wentworth, 118 N.H. 832, 842 (1978).

39. Regarding punishment, the New Hampshire Supreme Court has made clear that in addition to rehabilitation and deterrence, “retribution . . . remains a societal goal.” State v. Farrow, 118 N.H. 296, 303 (1978). In fact, the New Hampshire Supreme Court has specifically noted that Part I, Article 18, “sanctions ‘punishment’ as a method of reforming the criminal.” Wentworth, 118 N.H. at 842. Thus, punishment is an independent goal of sentencing that courts can and should be considered in evaluating the appropriateness of any given sentence. Accordingly, this Court has broad discretion to determine sentences that reflect the appropriate punishment here.

40. It should go without saying that a significant punishment is justified in this case. The defendant’s actions were completely and utterly unwarranted and resulted in the death of an innocent woman as well as irreparable damage to two minor children. Caitlyn Naffziger posed no danger to the defendant or to their children. She was unarmed and was sitting on a couch with one stockinged foot on the coffee table, wrapped in blankets. She was in an unfamiliar place with no means of leaving it. The defendant was taller and heavier than her, trained in hand-to-hand combat and marksmanship, he was armed with a gun and stood between her and any doorways. The defendant nevertheless shot her in the left temple, with the bullet travelling straight through her brain. After he killed Caitlyn, the defendant packed his vehicle, turned out the lights, locked the door, took their children, and fled. By his own account, he drove to New York before returning to New Hampshire over 10 hours later to “turn himself in.” The defendant described himself and the children as “happy” in the moments following the murder and has done nothing

to show a shred of remorse or regret for the life that he took. The defendant's actions in murdering Caitlyn Naffziger, harming their four-year-old daughter, and changing the lives of both children forever are appropriately and justly deserving of severe punishment.

41. With regard to rehabilitation, there is no evidence before the court that links the defendant's acts of murder to any psychological, intellectual, cognitive, or developmental condition or deficiency. Separate and apart from sentencing considerations, the defendant may benefit from treatment of his diagnosed Post-Traumatic Stress Disorder (PTSD) and/or Major Depressive Disorder (MDD), but those conditions did not form part of his defense in this case and are thereby not linked to his act of murder. A sentence less than the State's recommendation is not warranted to achieve such rehabilitative goals. Further, should the defendant take appropriate and attainable rehabilitative steps, there are statutory avenues available to him that could meaningfully reduce his sentences. See, e.g., RSA 651:20, 651-A:22-a.

42. Deterrence, both general and specific, supports imposition of the sentences advocated by the State. New Hampshire courts have long acknowledged that general deterrence is a legitimate consideration when handing down a sentence for a particular offense. See State v. Darcy, 121 N.H. 220, 225 (1981) ("The real purpose of all sentencing is to reduce crime, and our Constitution recognizes deterrence as a legitimate purpose of sentencing."). In Wentworth, 118 N.H. at 842-43, the New Hampshire Supreme Court discussed the role of general deterrence in sentencing in more detail:

Contrary to any assertion of the defendant, an emphasis on deterrence in this case is not inconsistent with N.H. Const., pt. I, art. 18, which states in part that “the true design of all punishments (is) to reform, not to exterminate mankind.” It should be noted that this constitutional language sanctions “punishment” as a method of reforming the criminal. This same language also recognizes deterrence as a valid purpose of sentencing; the implication is that reform will result from the deterrent effect of punishment. General deterrence is also recognized in other language in the article when it states that if the same “severity is exerted against all offenses, the people are led . . . to commit the most flagrant with as little compunction as they do the lightest offenses.” The State, however, does need to deter repetition of this offense both by the defendant and others. Both individual and general deterrence were important considerations for the imposition of sentence in this and related cases. To accomplish these purposes, the sentence needed to be more severe than in ordinary criminal trespass cases. In deciding on the degree of severity to obtain the necessary deterrent effect, the trial judge was entitled to consider the dedication and motivation of the offender who would not likely be deterred by a lighter sentence, but who with others might be induced by a more severe sentence to use lawful, instead of unlawful, means to protest. The object is not to stifle protest, but to deter unlawful conduct.

(Internal quotations marks omitted).

43. The New Hampshire Supreme Court in Wentworth concluded that as long as a sentencing court does not fail to consider the circumstances of the particular individual defendant in imposing its sentence, “[g]eneral deterrence is a permissible consideration.” Id. at 843. In the context of this crime, general deterrence is particularly appropriate. Through his choices and conduct, the defendant deliberately took the life of Caitlyn Naffziger and potentially put the life of their oldest daughter at risk as well. Other like-minded or similarly situated potential criminals must be warned that if they engage in conduct like this, they too will be met with significant punishment. This is especially needed in the arena of domestic violence cases where offenders often repeat their domestic violence crimes. See United States v. Booker, 644 F.3d 12, 26 (1st Cir. 2011) (“the recidivism rate for domestic violence is high”). Accordingly, this defendant should be sentenced as requested by the State, in order to help deter others from committing similar crimes.

44. Here, the defendant's acts were an overt demonstration of the kind of violence that demands deterrence through just and severe punishment, consistent with the sentences recommended by the State. Any length of imprisonment below the State's recommended sentences would do little to prevent similar violence and would instead send a dangerous message to the community, would-be killers, and victims - that a domestic violence homicide committed in the presence of minor children is somehow not worthy of a significant sentence.

45. Specific or individual deterrence is also an important consideration in this case. The facts clearly demonstrate that this defendant had no regard for the lives of others, including for the lives of children. Plainly, the defendant's actions in killing Caitlyn Naffziger and recklessly endangering E.D. were eminently harmful, have wide-ranging repercussions, and should be strongly discouraged in society. For these reasons, significant sentences must be imposed against the defendant as a legitimate means of potentially deterring others from resorting to similar violent and dangerous behavior that is antithetical to acceptable societal norms. See State v. Belanger, 114 N.H. 616, 619 (1974) (An "immediate goal [of sentencing] is the protection of society against the commission of future crimes, whether by the particular defendant being sentenced or by others who the sentence is supposed to deter.").

46. The defendant expressed no remorse for his actions, either at the time of the murder, during his interview with police shortly after his arrest, or at trial. As noted above, when asked if he had any regrets about what happened, the defendant accused the police of trying to trap him. It is clear from his statements, body language, and demeanor, both during his interview and at trial, that the defendant still does not believe that he did anything wrong when he shot a defenseless woman in the head. A significant sentence is warranted to send a message to the defendant that his behavior cannot and will not be tolerated.

47. Finally, the State's proposed sentence should be imposed to instill confidence in the criminal justice system. The New Hampshire Supreme Court has recognized this as a valid sentencing factor even in the absence of rehabilitation or deterrence. In Darcy, the Supreme Court aptly observed:

Many persons who are incarcerated for having committed homicide are not dangerous. They committed their crimes, as did this defendant, under a set of circumstances which are not likely to recur. It may be argued that a crime of this nature, committed in the heat of passion, is not likely to be deterred by imprisonment. Yet it is recognized that there are some crimes for which imprisonment may properly be thought to be the appropriate sentence even though it may not have a deterrent effect; otherwise, the seriousness of the crime would be unduly depreciated.

Darcy, 121 N.H. at 225-26.

The Supreme Court also stated that "public confidence in the system of justice" is an "important consideration" in sentencing. Id. at 225.

48. A significant prison sentence is required in this case to ensure public confidence in our system of justice. It will hold the defendant accountable for the wholly needless and unjustified taking of Caitlyn Naffziger's life for which he and he alone is responsible. It will hold the defendant accountable for recklessly engaging in conduct that placed E.D. in physical harm and subjected her to witnessing the murder of her mother at the defendant's hands. That this offense is truly antithetical to lawful society and public safety should not be open to legitimate debate. If ever there were crimes that fit the criteria for lengthy imprisonment regardless of any deterrent effect, the defendant's crimes fit the description.

49. A domestic violence murder is exactly the type of crime that requires a significant sentence to instill public confidence in the system of justice and to send a strong message of deterrence. Statistics kept by the Attorney General's Office show that historically, over 50% of

New Hampshire's murder cases are domestic violence related.⁸ New Hampshire's myriad of criminal statutes and programs addressing domestic violence reflect the seriousness with which our Legislature and the criminal justice system treat this issue. See McNair v. McNair, 151 N.H. 343, 351 (2004) ("We conclude that New Hampshire also has an equally strong interest in providing protection to victims of domestic violence within this State. Indeed, RSA chapter 173-B was enacted with the intent to preserve and protect the safety of the family unit for all family or household members by entitling victims of domestic violence to immediate and effective police protection and judicial relief."); State v. Kidder, 150 N.H. 600, 603 (2004) ("It is the public policy of this state to prevent and deter domestic violence through equal enforcement of the criminal laws and the provision of judicial relief for domestic violence victims.").

50. In this case, the defendant's murder of Caitlyn Naffziger is among the most extreme forms of domestic violence. The defendant killed Caitlyn inside of his home, in the presence of their two minor children, his actions injured one of those children, E.D., who also witnessed the murder of her mother. The defendant shot Caitlyn Naffziger from a distance of three feet or more while she was seated on a couch, resting a foot on the coffee table, wrapped in blankets and while he was blocking her access to any exit. These considerations, and the others already mentioned, weigh in favor of the sentence requested by the State.

51. Further, for the safety of the community, the defendant should be incarcerated for an extended period of time, so that he does not have the opportunity to harm anyone else. *See State v. Belanger, supra* at 619 (An "immediate goal [of sentencing] is the protection of society

⁸ Coos County is, unfortunately, not immune to the consequence of domestic violence, including domestic violence homicides. In 2025, the New Hampshire Domestic Violence Fatality Review Committee (DVFRC) was established to conduct comprehensive, multidisciplinary reviews of deaths related to domestic violence. The first case reviewed by the DVFRC was the tragic death of Marisol Fuentes in Berlin, New Hampshire on July 6, 2025.

against the commission of future crimes, whether by the particular defendant being sentenced or by others who the sentence is supposed to deter”). The defendant’s actions and the nature of his crimes merit the sentence proposed by the State.

52. Accordingly, for all the reasons discussed above, the State’s proposed sentences for the defendant’s murders advance the legitimate goals of sentencing, and the Court should impose them.

F. Sentencing in Comparable Cases.

53. Lastly, the State reviewed similar cases in arriving at its requested sentences. There is no singular case that is factually similar but these cases each involve domestic or known people as victims. Here, the State points to the following cases: State v. Jesse Sullivan, State v. Victor Rivera, State v. Brandon Castiglione, State v. Richard Tripaldi, II, and State v. James Periello. Below is a brief synopsis of each of the reviewed cases along with its sentence on the murder conviction.

- Jesse Sullivan (age 32) (Docket No. 217-2024-CR-00154) (Merrimack County): The defendant pled guilty to reckless second-degree murder for killing his half-brother. The defendant and his two half-brothers were out plowing snow; the defendant believed that the victim had spoken to police about an assault that had occurred a month earlier. While seated in the backseat of the snowplow, the defendant shot the victim in the back of the head before exiting the plow and running to a nearby apartment complex. The defendant attempted to hide the gun in the woods before being apprehended by investigators. Sentence after guilty plea: 53 years to life.
- Victor Rivera (age 47) (Docket No. 226-2023-CR-01101) (Hillsborough County–Southern District): The defendant was found guilty after trial of knowing and reckless second-degree murder for killing his ex-girlfriend and her friend. The defendant saw the victims at a bar and waited for them to leave before confronting them in the parking lot. The defendant shot his victims multiple times including one close range shot to his ex-girlfriend’s face. Sentence after trial: two consecutive sentences of 40 years to life.
- Brandon Castiglione (age 24) (Docket No. 218-2019-CR-01132) (Rockingham County): The defendant shot the victim in the back of the

head/neck, likely over a disagreement on interpretation of the bible, but there was no evidence presented of what triggered the shooting that particular day. The defendant knew the victim from church, and the defendant recently stopped going to the victim's bible study meetings. The victim was a handyman at the defendant's home working for the defendant's father for several weeks. On the day of his death, the victim was renovating a bedroom in the defendant's home. Sentence after trial: 40 years to life.

- Richard Tripaldi, II (age: 26) (Docket No. 217-2017-CR-00801) (Merrimack County): The defendant shot his new boyfriend in the head and buried him in the woods in an effort to steal his car. The defendant confessed to a family member that he had shot the victim and buried him using a gun that he purchased for the crime. The defendant told police that the victim was kneeling near a firepit when the defendant raised his right arm and shot the victim in the left side of his head. The defendant watched the victim die, took property from him, and then covered most of the body with dirt. The defendant pled guilty to knowing second degree murder. Sentence after guilty plea: 42 years to life.
- James Perriello (age: 41) (Docket No. 220-2012-CR-00058) (Sullivan County): This case involved a domestic murder by shooting that occurred in close proximity to a sleeping child. Perriello armed himself with a pistol and entered his estranged wife Natalie's bedroom where she was laying on the bed with her 3-year-old son, who was asleep. The two had been arguing for several hours. When Natalie saw the defendant with a gun she moved off the bed away from her son as the defendant began shooting at her. The defendant shot her seven times, killing her. The defendant pled guilty to knowing second-degree murder, with a cap/floor plea, with a floor of 18-36 years and a cap of 35 years to life. Sentence after plea: 35 to life, stand committed.

54. The above cases provide guidance for the Court to consider when sentencing the defendant. There are disparities between the underlying events, offenders, and case circumstances: Sullivan, Tripaldi, and Perriello were sentenced following negotiated guilty pleas. The offender in Sullivan had a significant criminal history. But as noted supra, the defendant's lack of similar record neither lessens his act of murder nor should it mitigate his sentences.

55. Such distinctions as those noted above, or any others that may be raised by the defense, do not make the sentences advocated by the State in this case disproportionate or unduly harsh. Indeed, any case involving somewhat similar circumstances that may be presented to the

Court will not be on all-fours with respect to the case at hand. But the sentences imposed for murder in these other similar cases are consistent with the sentences advocated by the State here; this reflects that the State's requested sentences as to the defendant are neither unfair nor sentencing outliers.

56. For all the reasons stated *supra*, the State respectfully requests that this Court impose the sentence recommended by the State. This sentence will hold the defendant accountable for the wholly needless and unjustified taking of Caitlyn Naffziger's life. The requested sentence fairly and appropriately holds the defendant accountable for endangering E.D. and causing her physical harm and irreparable emotional harm. The proposed sentences consider the aggravating and mitigating circumstances and appropriately consider the goals of sentencing.

WHEREFORE, the State of New Hampshire respectfully requests that this Honorable Court:

- (A) Impose the sentences advocated by the State; and/or
- (B) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

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December 4, 2025

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CERTIFICATION

I certify that a copy of this notice has been sent to counsel for the defendant, Hanna Kinne, Esq., and Margaret Kettles, Esq., via the electronic case filing system.

December 4, 2025

/s/ Bethany J. Durand
Bethany J. Durand
Assistant Attorney General