

REPORT TO THE LEGISLATURE

MONTANA DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION

JANUARY 2005

This project was supported by Grant no. 04-W05-81687 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

TABLE OF CONTENTS

| | |
|--|----------|
| Letter from the Commission..... | Page 2 |
| Roster of Commission Members..... | Page 3 |
| Overview of Review Timeline..... | Page 4 |
| Discussion of the Commission Findings | Page 5-8 |
| Mission, Vision, and Guiding Principles | Page 9 |
| MT Domestic Violence Homicides since 2000..... | Page 10 |
| Confidentiality Agreement..... | Page 11 |
| Danger Assessment Instrument..... | Page 12 |
| Summary of Federal Firearms Laws..... | Page 13 |
| Victim Notification of Release Form..... | Page 14 |

January 2005

Fellow Montanans:

The Montana Domestic Violence Fatality Review Commission brings forth its first summary report with a sense of sadness and a commitment to work for improvements in our state's response to domestic violence. Created by HB 116 and authorized by the 2003 legislature, the Commission is charged with reviewing homicides across the state resulting from intimate partner violence. The Commission is required to report its findings and recommendations every two years, coinciding with new legislative sessions.

The Commission undertakes two reviews per year. This report describes how the Commission does its work, summarizes trends identified through the first four reviews and contains forms and documents to be used in implementing the Commission's recommendations. It provides a broad overview of who the Commission is, its purpose and its work thus far.

Unfortunately, the need for the Commission has not lessened in the past two years. Twelve individuals died in the homicides reviewed in this report. Since 2000, at least 25 additional domestic violence deaths have occurred. The ultimate goal of the Commission's work, to reduce that number, remains urgent.

The Commission is extremely grateful to the Montana legislature for the opportunity to undertake this important work. We are also indebted to Attorney General Mike McGrath for his ongoing support and direction.

Sincerely,

Matthew Dale, Coordinator
Montana Domestic Violence Fatality Review Commission

**MONTANA DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION
MEMBERS**

| Name | Position | Organization | City |
|----------------|---------------------------------|---------------------------------|-------------|
| Deb Bakke | Legal Advocate | Friendship Center | Helena |
| Ali Bovingdon | Assistant Attorney General | Department of Justice | Helena |
| Beki Brandborg | Team Facilitator | Mediator | Helena |
| John Buttram | Licensed Professional Counselor | Batterer's Treatment Program | Kalispell |
| Matthew Dale | Team Coordinator | Office of Victim Services | Helena |
| Bryan Fischer | Police Officer | Helena Police Department | Helena |
| Connie Harvey | DPHHS Social Worker | Children & Family Services Div. | Billings |
| Warren Hiebert | Chaplain | Gallatin Co. Sheriff's Dept. | Bozeman |
| Wally Jewell | Justice of the Peace | Justice Court | Helena |
| Joan McCracken | Sexual Assault Nurse Examiner | Retired | Billings |
| Alison Paul | Attorney | MT Legal Services | Helena |
| Gary Perry | Senator | MT Legislature | Manhattan |
| Joseph Rich | Medical Director | Yellowstone Boys & Girls Ranch | Billings |
| Mel Rutherford | Probation Officer | Blackfeet Tribe | Browning |
| Stu Stadler | District Judge | State of MT | Kalispell |
| Judy Wang | Prosecutor | City of Missoula | Missoula |
| Cindy Weese | Executive Director | YWCA | Missoula |

The Attorney General appoints members for an open-ended term. The Commission is limited to 18 members, excluding the facilitator and coordinator. New members are added when the Commission identifies a need for experience that is outside its current makeup.

MDVFRC REVIEW TIMELINE

The Commission selects the review community based on a number of factors. In general, homicides that are more recent, have unique circumstances and are located in communities not previously visited are preferred.

The attorney general approves the review site.

The team coordinator attends a family violence council meeting in the host community to explain the process and answer questions.

The process of gathering information begins. Law enforcement, victim services, the courts, medical examiner, etc. are contacted. As appropriate, individuals within those systems are interviewed regarding their experience with victim or offender. Records and interview notes are sent to the team coordinator. Those individuals interviewed are invited to attend the review.

Family members, close friends, coworkers, ministers, teachers, etc., are interviewed. Interview notes are passed on to the team coordinator.

The Commission coordinator sends accumulated information to members.

Day one of the review process: a timeline is constructed identifying key events in the lives of the victim and perpetrator and their contacts with a variety of professionals/services (3 hours).

Day two: community members who have been involved in the accumulation of information for the review join the Commission to evaluate the timeline and provide any additional information they might have. Those attending the review read and sign a confidentiality agreement. Additions and corrections are made to the timeline (3 1/2 hours). Following a break for lunch, the Commission discusses trends and recommendations learned from this review. Tentative dates and locations for the next review are identified (2 hours).

The Commission coordinator retrieves all written information at the end of the review and transports it back to Helena to be shredded.

A summary of the review is transcribed by the facilitator and circulated to commission members. This document is the only written record of the review. It is not made public.

REPORT TO THE 2005 LEGISLATURE

The 2003 Montana legislature passed HB 116 creating the Montana Domestic Violence Fatality Review Commission. The commission has completed four reviews since May 2003. The legislation mandates this biennial report from the commission to the legislature, the attorney general, the governor and the chief justice of the Montana Supreme Court outlining its findings and recommendations.

All of the domestic violence deaths reviewed for this report occurred in the past four years, were perpetrated by men and involved multiple victims. All involved a firearm as the murder weapon. All were homicide/suicides, and two took the lives of the couple's children as well. All told, 12 individuals died in these four incidents. In two of the incidents, in addition to the shootings, the perpetrator attempted to burn down the family home.

It should be noted that the Commission reviews only a fraction of the family violence deaths in Montana each year. Since the passage of HB 116 in 2003, at least 25 people have died in domestic violence homicides, including the 12 mentioned above. Since 2000, our state has averaged more than seven family violence deaths per year, which should be considered a *minimum* figure. It seems likely that additional deaths that are not easily recognized as domestic violence deaths (suicides, drug overdoses, mercy killings, etc.) would push the figure even higher.

Equally important is the recognition that the individuals killed in the reviewed incidents were young, active and vibrant, cut down in the prime of their lives. The average age of the adult victims was 31, and the average age for perpetrators was 39. The murdered children ranged in age from 3 to 7. A fifth child was left an orphan at the age of 12.

At the time of their deaths, each of the women had made a decision to leave the violent relationship. In every case reviewed, the woman was killed at the point her partner became convinced she was ending the relationship.

- One of the victims had finished high school as a teenage mom and had recently started college.
- Another was named an Indian Princess by her high school peers.
- A third was known throughout her community as a highly talented musician.

Most were lifelong Montana residents.

For the most part, the men who killed were not well known to law enforcement. Only one had a criminal history involving firearms. Two of the four purchased the murder weapon only days before using it and the other two used borrowed weapons. In two cases, law enforcement had never been called to the home prior to the homicide. All four perpetrators were employed, in positions that ranged from construction to the financial industry to ranching. They were from diverse ethnic backgrounds.

The Commission is guided by a “no blame/no shame” philosophy. The purpose of a fatality review is not to identify an individual or agency as responsible for the deaths. These are complex cases, involving a number of professionals and variables. It is simply not true that any one action, or inaction, in and of itself, resulted in the tragedy.

At the same time, none of the individuals involved with the family would consider the deaths an acceptable conclusion. These deaths traumatize not only those affiliated with the family but, indeed, the entire community. By reviewing the homicides, the Commission seeks to identify gaps and inadequacies in the response to domestic violence, both at the community and statewide levels. The goal is to prevent future family violence homicides. The attachments to this report are specific, concrete steps in that direction.

In a majority of cases, the Commission was warmly welcomed to the review community. Information requested was provided quickly and cooperation by agency employees was excellent. Whenever possible, the team coordinator attended a local family violence council meeting prior to the review to explain the process and answer questions. Equally important, Commission members made initial contact with their peers in the review community in order to help reduce suspicion and increase access to information. Having judges speak with other judges, victim advocates talk with their colleagues, law enforcement converse among themselves, and so on, has been a key aspect in the Commission’s success. Interviews with these professionals augment their paper reports and improve the review process. These individuals are also invited to sit in on the actual review. Attendance at reviews by those invited has been good, although it is hoped that even more invitees will participate in future reviews. So far representatives from law enforcement, child protective services, victim advocacy, county, city and private attorneys and shelter personnel have taken part.

Family members are not invited to the review itself, but parents, siblings, surviving children and former spouses of both the victim and the offender are interviewed prior to the review. When possible, friends, neighbors, coworkers, ministers and other concerned persons are also interviewed. Their memories and descriptions broaden and deepen the review process.

Montana’s Fatality Review Commission is alone in the nation in going to this extent to include input from family members, and it has received national attention for this aspect of

its work. From the outset, Commission members have been dedicated to having reviews move beyond a purely statistical exercise. The Commission endeavors to understand each victim as a unique individual. Each victim had a life outside of the tragedy. Montana's Commission is committed to making the reviews as well rounded as possible.

The Commission undertakes two reviews per year. This allows for in-depth work with each review. The goal of domestic violence fatality reviews is to identify gaps in current systems and propose solutions that will result in fewer lives lost. Montana's Commission has achieved this goal by identifying critical gaps in services and responses. Additionally, the Commission has proposed solutions to resolve problem areas. Over the next two years, we look forward to ongoing work with all those committed to reducing family violence across Montana.

Trends identified by the Commission:

- The homicides all took place after the offender was convinced the victim was ending the relationship permanently.
- In all cases, the homicides were the last in a series of controlling behaviors exercised by the batterer.
- Firearms were used in each of the deaths reviewed.
- The homicides occurred across the state, in families of varied socioeconomic levels.

Commission recommendations include:

- Improve the collection and reporting of statewide domestic violence statistics.
- Close the technology gap that limits the ability of courts to track prior offenses (for enhancement) and to exchange electronic records with one another.
- Improve/increase supervision of those convicted of Partner and Family Member Assault (PFMA), either through compliance officers or misdemeanor probation officers, in order to ensure that all aspects of the sentence are carried out.
- Restrict communication between the offender and the victim during incarceration.
- Establish a systematic method of notifying domestic violence victims when an offender will be released from custody.
- Disseminate the model “Victim Notification of Inmate Release” form statewide.
- Make “no contact” orders between the victim and offender automatic with a PFMA arrest.
- Vigorously enforce state and federal firearm statutes for those convicted of PFMA.
- Hold arraignments for those arrested for PFMA later in the day, to allow time for an advocate to contact the victim before the offender is released.
- Provide domestic violence referral information to victims who ask to have a restraining order or PFMA charge rescinded.
- Increase the use of “lethality assessments” by courts, law enforcement, victim advocates and all professionals who interact with victims and batterers.
- Create and implement a domestic violence education program in schools.
- Improve screening for domestic violence by healthcare workers, including information for appropriate referrals.
- Extend the “sunset” date of HB 116 from December 31, 2006 for another two years.

Please direct questions, comments or suggestions about this report or the MDVFRC to Matthew Dale, 406-444-1907 or madale@mt.gov. Additional information (and downloadable versions of the attached forms) is available at <http://www.doj.state.mt.us/victims/default.asp>.

MONTANA DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION

Mission

The Montana Domestic Violence Fatality Review Commission (MDVFRC) is a multi-disciplinary group of experts who study domestic violence homicides in a positive, independent, confidential and culturally sensitive manner, and make recommendations – without blame – for systems and societal change.

Vision Statements

Because we are committed to partner and family safety, the MDVFRC, in partnership with the local community, will achieve:

1. Systemic change: Domestic violence interventions occur early, often and successfully. Individuals communicate openly and effectively across boundaries.
2. Societal change: Communities are educated about and understand why domestic violence occurs and become involved in its reduction.

Guiding Principles

1. We offer each other support and compassion.
2. We conduct the Review in a positive manner with sensitivity and compassion.
3. We acknowledge, respect and learn from the expertise and wisdom of all who participate in the Review.
4. We work in honor of the victim and the victim's family.
5. We are committed to confidentiality.
6. We avoid accusations or faultfinding.
7. We operate in a professional manner.
8. We share responsibilities and the workload.

DV HOMICIDES SINCE 2000
(As of 12/9/04)

| Last Name | First Name | Fatality Location | Age | Date Of Death | Type Of Death |
|------------------|-------------------|--------------------------|------------|----------------------|-----------------------------|
| Vanderpool | Eugenia | Lockwood | 32 | 02/15/00 | Homicide / Suicide |
| Miller | Leanne | Bozeman | 42 | 06/03/00 | Homicide / Shot By Officer |
| Brekke | Bonita | Bozeman | 51 | 01/11/01 | Homicide / Suicide |
| Williams | Bonnie | Lockwood | 33 | 02/19/01 | Homicide |
| Baarson | Kim | Butte | 39 | 03/06/01 | Homicide / Suicide |
| Vancleave | Emily | Billings | 22 | 04/17/01 | Homicide / Suicide |
| Mosure | Michelle | Billings | 23 | 11/19/01 | Homicide / Suicide + 2 Kids |
| Rasmussen | Noelle | Butte | 23 | 04/13/02 | Homicide / Suicide |
| Newman | Cathy | Frenchtown | 51 | 05/15/03 | Homicide / Suicide |
| Flying | Sheila | Conrad | 30 | 05/22/03 | Homicide / Suicide |
| McDonald | Jessica | Great Falls | 32 | 07/01/03 | Homicide / Suicide + 2 Kids |
| Erickson | Mindie Jo | Bozeman | 33 | 09/10/03 | Homicide / Suicide |
| Vittatoe | Gina | Anaconda | 57 | 11/14/03 | Homicide |
| Zumsteg | Deborah | Billings | 41 | 03/01/04 | Homicide / Suicide |
| Macdonald | Virginia | Missoula | Mid-40s | 04/29/04 | Homicide / Suicide |
| Chenoweth | Aleasha | Plains | 24 | 07/19/04 | Homicide |
| Yetman | Labecca | Darby | 35 | 08/30/04 | Homicide |
| Hackney | Stephen | Lolo | 38 | 11/26/04 | Homicide |
| McKinnon | Gina | Marion | 40 | 12/01/04 | Homicide / Suicide |

**MONTANA FATALITY REVIEW COMMISSION
CONFIDENTIALITY AGREEMENT**

1. The effectiveness of the work of the Domestic Violence Fatality Review Team is conditioned upon the confidentiality of the review process and the information shared. I agree that all discussions and information obtained in the review process will remain strictly confidential and will not be used for any purpose outside this review process. Communications, oral and written, and documents relating to this review shall remain confidential and are not subject to disclosure.
2. I may speak with a review participant about the substance of the meeting without violating this agreement, provided that the discussion and information shared is not communicated in any way with non-participants.
3. I will notify the Fatality Review Team coordinator if I am subpoenaed or court ordered for information in my capacity as a member of the Fatality Review Team.
4. Any public presentation of case illustrations by our Team coordinator or another authorized Team member will have all identifying characteristics removed.
5. I agree to return all information received during the review process to the Team coordinator at the conclusion of each review.
6. A designated Team member shall report evidence of an additional offense, separate from the homicide reviewed, to a law enforcement agency with jurisdiction over the offense. Filing a report with a law enforcement agency concerning this evidence does not violate this agreement.
7. The identities of individual local Team participants will not be disclosed without the written authorization of the participant.
8. I will not divulge the views or work of the Team to the media, except as authorized by the Team.
9. I understand that violation of this agreement may result in my removal from the review Team and a civil penalty of not more than \$500.

SIGNATURE

AGENCY

DATE

DANGER ASSESSMENT

Jacquelyn C. Campbell, PhD, RN

Copyright 2004 Johns Hopkins University, School of Nursing

Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation.

Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones
4. Threat to use weapon; head injury, internal injury, permanent injury
5. Use of weapon; wounds from weapon

(If **any** of the descriptions for the higher number apply, use the higher number.)

Mark **Yes** or **No** for each of the following. ("He" refers to your husband, partner, ex-husband, ex-partner, or whoever is currently physically hurting you.)

- _____ 1. Has the physical violence increased in severity or frequency over the past year?
- _____ 2. Does he own a gun?
- _____ 3. Have you left him after living together during the past year?
_____ 3a. (If you have *never* lived with him, check here _____)
- _____ 4. Is he unemployed?
- _____ 5. Has he ever used a weapon against you or threatened you with a lethal weapon?
(If yes, was the weapon a gun? _____)
- _____ 6. Does he threaten to kill you?
- _____ 7. Has he avoided being arrested for domestic violence?
- _____ 8. Do you have a child that is not his?
- _____ 9. Has he ever forced you to have sex when you did not wish to do so?
- _____ 10. Does he ever try to choke you?
- _____ 11. Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, speed, angel dust, cocaine, "crack", street drugs or mixtures.
- _____ 12. Is he an alcoholic or problem drinker?
- _____ 13. Does he control most or all of your daily activities? For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car? (If he tries, but you do not let him, check here: _____)
- _____ 14. Is he violently and constantly jealous of you? (For instance, does he say, "If I can't have you, no one can.")
- _____ 15. Does he follow or spy on you, leave threatening notes or messages on answering machine, destroy your property, or call you when you don't want him to?
- _____ 16. Have you ever been beaten by him while you were pregnant? (If you have never been pregnant by him, check here: _____)
- _____ 17. Have you ever threatened or tried to commit suicide?
- _____ 18. Has he ever threatened or tried to commit suicide?
- _____ 19. Does he threaten to harm your children?
- _____ 20. Do you believe he is capable of killing you?
- _____ Total "Yes" Answers

Thank you. Please talk to your nurse, advocate or counselor about what the Danger Assessment means in terms of your situation.

**Partial Reference to Federal Firearms Laws
District of Montana**

I. POSSESSION OR RECEIPT OF A FIREARM OR AMMUNITION BY A PROHIBITED PERSON:

18 USC § 922(g). Punishable by up to 10 years imprisonment.

Elements

A. **Knowing possession** or **receipt** of a firearm or ammunition;

B. By a subject who falls within one of the following categories:

- * **Felon**
- * **Drug addict or persistent drug abuser**
- * **Alien**
- * **Person adjudicated as mental defective or committed to mental institution**
- * **Person subject to a domestic restraining order**
- * **Person with a prior misdemeanor conviction for domestic violence**
- * **Fugitive from justice**
- * **Person dishonorably discharged from the military**

C. **AND**, the firearm or ammunition was transported across a state line at any time, which is generally the case because few firearms are manufactured in Montana.

ARMED CAREER CRIMINAL: Pursuant to 18 USC § 924(e) may receive minimum sentence of 15 years without parole if offender has 3 or more prior convictions for a felony crime of violence (e.g., burglary, arson, extortion, assault) and/or drug trafficking felony or felonies.

II. KNOWINGLY SELL, GIVE OR OTHERWISE DISPOSE OF ANY FIREARM OR AMMUNITION TO ANY PERSON WHO FALLS WITHIN ONE OF THE ABOVE CATEGORIES:

18 USC § 922(d). Punishable by up to 10 years imprisonment.

III. USE, CARRY OR POSSESS A FIREARM IN RELATION TO OR IN FURTHERANCE OF A FEDERAL DRUG FELONY OR A FEDERAL CRIME OF VIOLENCE:

18 USC § 924(c); 18 USC § 924(j). Punishment ranges from a **minimum of 5 years** up to life imprisonment, without parole, or **death** if death results from use of firearm. Sentence of imprisonment must be served **consecutive** to any other sentence. Mandatory minimum sentence increases depending upon: **the type of firearm involved** (short-barreled rifle or shotgun; silencer, etc.); **whether it is a second or subsequent offense**; and **whether gun was brandished or discharged**.

IV. THREE STRIKES:

18 USC § 3559(c). Punishable by mandatory life imprisonment.

Elements

A. instant offense is a federal serious violent felony;

B. by a subject who has been previously convicted of :

- * two or more serious violent felonies; **OR**
- * one or more serious violent felonies and one or ore serious drug trafficking offenses.

DEFINITION OF "FIREARM"

18 USC § 921(a)(3), (4). Any weapon (including a starter gun) that will expel a projectile by means of an explosive or is designed or may be readily converted to do so. This includes the frame or receiver of any such weapon, any firearm muffler or silencer or any destructive device. A "**destructive device**" includes any explosive, incendiary or poison gas – (i) bomb; (ii) grenade; (ii) similar device, or any combination of parts designed or intended for use in converting any device into a destructive device, or from which a destructive device may be readily assembled.

Does not include antique firearms.

TRACING OF FIREARMS

Firearms information for **every firearm** taken into police custody should be sent to ATF for tracing and possible connection to other criminal activity.

For information, questions or to make a referral for prosecution, please contact:

BUREAU OF ALCOHOL, TOBACCO & FIREARMS

UNITED STATES ATTORNEY'S OFFICE

**DETENTION CENTER
VICTIM NOTIFICATION OF INMATE RELEASE**

INMATE'S NAME: _____

VICTIM'S NAME: _____

VICTIM TELEPHONE #: _____

**VICTIM PHYSICAL
ADDRESS:** _____

OTHER INFORMATION: _____

TELEPHONE BLOCKED:

| | | | |
|--|-------------|-------------|----------------|
| | Date | Time | Officer |
|--|-------------|-------------|----------------|

**VICTIM NOTIFIED
OF PENDING RELEASE:**

| | | | |
|--|-------------|-------------|----------------|
| | Date | Time | Officer |
|--|-------------|-------------|----------------|

1st Attempt to Contact: no answer

| | | | |
|--|-------------|-------------|----------------|
| | Date | Time | Officer |
|--|-------------|-------------|----------------|

2nd Attempt to Contact: no answer

| | | | |
|--|-------------|-------------|----------------|
| | Date | Time | Officer |
|--|-------------|-------------|----------------|

3rd Attempt to Contact: no answer

| | | | |
|--|-------------|-------------|----------------|
| | Date | Time | Officer |
|--|-------------|-------------|----------------|

**DISPATCH NOTIFIED OF NO
CONTACT:**

| | | | |
|--|-------------|-------------|----------------|
| | Date | Time | Officer |
|--|-------------|-------------|----------------|

INMATE RELEASED:

| | | | |
|--|-------------|-------------|----------------|
| | Date | Time | Officer |
|--|-------------|-------------|----------------|

ADDITIONAL NAMES AND INFORMATION ARE TO BE PLACED ON ADDITIONAL PAGES

Prior to release of the inmate, the Detention Center Staff will attempt to contact the authorized person listed above by telephone. If the person does not have a telephone or is unable to be contacted via telephone, the Detention Center Staff will notify the arresting agency, via the dispatch center, of the pending release so that the agency may make personal contact with the victim.