

REPORT TO THE LEGISLATURE
MONTANA DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION
JANUARY 2007

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**STATE OF MONTANA
DEPARTMENT OF JUSTICE
OFFICE OF CONSUMER PROTECTION AND VICTIM SERVICES**

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Attorney General**



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P.O. Box 201410
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January 2007

Fellow Montanans:

The Montana Domestic Violence Fatality Review Commission brings forth its second biennial summary with a sense of both frustration and hope. We would prefer to report great success in reducing domestic violence homicide. We have not yet achieved that goal. As a state, however, Montana has made progress in intervening in violent relationships. Along with numerous statewide and community organizations, we remain committed to increasing victim safety and perpetrator accountability. The deaths experienced by the families in the four reviews completed in the past two years demand nothing less.

This report describes how the Commission does its work, summarizes trends identified through the latest reviews and, most important, contains summary forms and documents to be used in understanding and implementing the Commission's recommendations.

Unfortunately, the need for the Commission has not lessened. Seven individuals died in the homicides reviewed in this report. Since the Commission began its work in 2003, at least 27 additional domestic violence deaths have occurred. The ultimate goal of the Commission - 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 to the Montana Board of Crime Control for continued funding. It is only through strong and varied partnerships that family violence can be reduced in our state.

Sincerely,

Matthew Dale, Coordinator
Montana Domestic Violence Fatality Review Commission

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Report to the 2007 Legislature

The 2003 Montana legislature created the Montana Domestic Violence Fatality Review Commission. In 2005, majorities in both houses extended the Commission's work for another two years. Among other things, 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.

It should be noted that the Commission reviews only a fraction of the family violence deaths in Montana each year. Since the passage of House Bill 116 in 2003, at least 34 Montanans have died in domestic violence homicides. From 2000 forward, our state has averaged more than eight 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.) could push the figure even higher.

In the past two years the Commission reviewed four domestic violence homicides. None was more than three years old. All were perpetrated by men. All but one involved multiple victims. Three of the killings were homicide/suicides. The perpetrator of the fourth is serving a life sentence at Montana State Prison. In each case the perpetrator used a firearm as the murder weapon. All told, seven individuals died in these four incidents and eight children were orphaned. Their mothers ranged in age from 35 to 51. Two of these children were in the room when their father shot their mother at point-blank range.

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 individuals and variables. It is simply not true that the tragedy was the result of any one action - or inaction - in and of itself.

At the same time, none of the individuals involved with these families would consider the deaths an acceptable conclusion. These deaths traumatize not only those close to the family but, indeed, entire communities. By reviewing the homicides, the Commission seeks to identify gaps and inadequacies in the response to domestic violence, 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.

Fortunately, there is positive news to report in the area of improving the state's response in holding batterers accountable. Three of the recommendations put forth in 2005's *Report to the Legislature* are now law.

- Senate Bill 452 created automatic "no contact" orders at the time of arrest for partner or family member assault (PFMA). In any jurisdiction with an appropriate standing order, an offender is prohibited from making contact with the victim until after the initial appearance before a judge.
- House Bill 90 extended the life of the Commission through December 31, 2008.

- House Bill 476 funded domestic violence misdemeanor probation or compliance officers in three Montana communities. These individuals ensure that those convicted of PFMA complete the requirements of their sentence.
- One hundred thirty nine city or justice courts have implemented FullCourt, an electronic case management system that standardizes court practices. These courts account for 99 percent of all misdemeanor cases handled by the state each year.
- Montana is creating a Central Court Repository where court information is stored and shared. This will greatly improve the state's ability to track those convicted of domestic violence across jurisdictions. By the end of 2006, 71 courts will be placing data into the repository each day.
- The Commission was broadened and strengthened through the addition of an educator and a senior FBI agent.

Equally important, Commission members continued making contact with their peers across the state, reducing suspicion about the review process and encouraging implementation of Commission recommendations. Having judges speak with other judges, victim advocates talk with their colleagues, law enforcement converse among themselves, etc., has been essential to the Commission's success.

Montana's Commission is committed to making the reviews as well-rounded as possible. In addition to professionals and service providers, surviving family members are invited to participate in the review process. Commission members interview parents, siblings, children and former spouses of both the victim and the offender prior to the review. When possible, interviews also take place with friends, neighbors, coworkers, ministers and others who knew the family well. Their memories and descriptions broaden and deepen the review process tremendously.

Montana's Fatality Review Commission is alone in the nation in going to this extent to include input from family and community members. The Commission's model is used to train fatality review teams across the country and has been written up in the National Domestic Violence Fatality Review Initiative's *Fatality Review Bulletin*. Commission members are dedicated to reviews being more than a statistical exercise. The realization that each victim is unique and had a life outside of the tragedy is integral to the work.

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 begun that process. By working with community partners and statewide organizations some success has been achieved. It is essential that this work continue. Over the next two years we, along with thousands of other Montanans, will continue our efforts to reduce family violence in our state.

Trends identified by the Commission since January 2005:

- Engaging Child Protective Services is an essential intervention. Child abuse takes place in many families also experiencing domestic violence. When mandated reporters neglect their responsibilities, an opportunity to get important services to the family is missed.
- Relationships between older men and underage, undereducated women were common in the fatalities the Commission reviewed. These were frequently the first romantic relationships for the young women and they quickly became pregnant. No action was taken, in spite of the age difference. Any move toward independence by her over the course of the relationship was met with increased violence, culminating in homicide when the batterer was convinced she was permanently ending the relationship.
- Firearms continue to be the most frequently used weapons.
- Important intervention opportunities exist for medical providers and the faith community. Frequently medical appointments or church services are the only interactions with service providers that the batterer allows. Training professionals in both areas to identify and intervene in violent relationships may save lives.
- Relationships with histories of threats of suicide, previous threats to kill, substance abuse and access to firearms are at high risk for domestic violence homicide.
- Mental health follow-up services for the children of domestic violence homicide victims appear to be limited and inadequate.

Commission recommendations include:

- Improve screening for domestic violence by healthcare workers, probation officers and clergy.
- Require mandatory fingerprinting for all non-traffic misdemeanor offenses.
- Improve the collection and reporting of statewide domestic violence statistics, particularly from Native American reservation communities.
- Continue to close the technology gap that limits the ability of courts to track prior offenses and to exchange electronic records with one another. This is particularly important when the accumulation of misdemeanor offenses leads to felony charges.
- Improve/increase supervision of those convicted of Partner and Family Member Assault (PFMA) through increased funding for misdemeanor probation officers.
- Vigorously enforce state and federal firearm statutes for those convicted of PFMA, particularly for those identified as “prohibited persons” under federal law.
- Create and implement a domestic/dating violence education program in schools.
- Implement the Hope Card project, which places all essential order of protection information on a small, sturdy, portable plastic card.
- Extend the current “sunset” date of the Commission to December 31, 2010.

DOMESTIC VIOLENCE HOMICIDES SINCE 2000

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	2/19/01	Homicide
Baarson	Kim	Butte	39	03/06/01	Homicide / Suicide
Van Cleave	Emily	Billings	22	04/17/01	Homicide / Suicide + 1 Child
Mosure	Michelle	Billings	23	11/19/01	Homicide / Suicide + 2 Children
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 Children
Erickson	Mindie Jo	Bozeman	33	09/10/03	Homicide / Suicide
Vittetoe	Gina	Anaconda	57	07/14/03	Homicide
Zumsteg	Deborah	Billings	41	03/01/04	Homicide / Suicide
Lint/Porter	Colleen	Missoula	?	03/24/04	Homicide
MacDonald	Virginia	Missoula	40	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
Baird	Donald	Anaconda	53	04/11/05	Homicide
Mathison-Pierce	Erikka	Glendive	35	06/10/05	Homicide / Suicide
LaRocque	Jill	Great Falls	22	06/25/05	Homicide
Roberson	Will	Missoula	?	07/05/05	Homicide By Hired Killer
Thompson	Dawn	Ferndale	36	08/27/05	Homicide
Haag	Von Stanley	North Fork	60	11/07/05	Homicide
Benson	Brenda	Great Falls	?	11/16/05	Homicide
Anderson	Lawrence	Opportunity	45	02/21/06	Homicide
Van Holten	JoLynn	Dillon	43	04/12/06	Homicide/Suicide
Spotted Bear	Susie	Browning	46	08/13/06	Homicide/Suicide

DOMESTIC VIOLENCE HOMICIDES SINCE 2000/WEAPON USED

LAST NAME	FIRST NAME	AGE	DATE OF DEATH	TYPE OF DEATH	WEAPON
Vanderpool	Eugenia	32	02/15/00	Homicide / Suicide	Firearm
Miller	Leanne	42	06/03/00	Homicide / Shot By Officer	Firearm
Brekke	Bonita	51	01/11/01	Homicide / Suicide	Firearm
Williams	Bonnie	33	02/19/01	Homicide	Firearm
Baarson	Kim	39	03/06/01	Homicide / Suicide	Firearm
Van Cleave	Emily	22	04/17/01	Homicide / Suicide + 1 Child	Firearm
Mosure	Michelle	23	11/19/01	Homicide / Suicide + 2 Children	Firearm
Rasmussen	Noelle	23	04/13/02	Homicide / Suicide	Firearm
Newman	Cathy	51	05/15/03	Homicide / Suicide	Firearm
Flying	Sheila	30	05/22/03	Homicide / Suicide	Firearm
McDonald	Jessica	32	07/01/03	Homicide / Suicide + 2 Children	Firearm
Erickson	Mindie Jo	33	09/10/03	Homicide / Suicide	Firearm
Vittetoe	Gina	57	07/14/03	Homicide	Knife
Zumsteg	Deborah	41	03/01/04	Homicide / Suicide	Firearm
Lint/Porter	Colleen	?	03/24/04	Homicide	Kick to head
MacDonald	Virginia	40	04/29/04	Homicide / Suicide	Firearm
Chenoweth	Aleasha	24	07/19/04	Homicide	Firearm
Yetman	Labecca	35	08/30/04	Homicide	Firearm
Hackney	Stephen	38	11/26/04	Homicide	Knife
McKinnon	Gina	40	12/01/04	Homicide / Suicide	Firearm
Baird	Donald	53	04/11/05	Homicide	Firearm
Mathison-Pierce	Erikka	35	06/10/05	Homicide / Suicide	Firearm
LaRocque	Jill	22	06/25/05	Homicide	Strangulation
Roberson	Will	?	07/05/05	Homicide By Hired Killer	Firearm
Thompson	Dawn	36	08/27/05	Homicide	Firearm
Haag	Von Stanley	60	11/07/05	Homicide	Firearm
Benson	Brenda	?	11/16/05	Homicide	Drug overdose
Anderson	Lawrence	45	02/21/06	Homicide	Run over
Van Holten	JoLynn	43	4/12/06	Homicide/Suicide	Firearm
Spotted Bear	Susie	46	08/13/06	Homicide/Suicide	Kick to head

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.

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.mt.gov/victims/default.asp>.

MDVFRC 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
Melodee Burreson	Educator	Target Range Elementary School	Missoula
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
Caroline Fleming	Executive Director	Custer Network Against DV	Miles City
Connie Harvey	DPHHS Supervisor	Children & Family Services Division	Billings
Warren Hiebert	Chaplain	Gallatin County Sheriff's Dept.	Bozeman
Wally Jewell	Justice of the Peace	Justice Court	Helena
Joan McCracken	Sexual Assault Nurse Examiner	Retired	Billings
Alison Paul	Attorney	Montana Legal Services	Helena
Gary Perry	Senator	Montana Legislature	Manhattan
Stewart Stadler	District Judge	State of Montana	Kalispell
Judy Wang	Prosecutor	City of Missoula	Missoula
Ernie Weyand	Senior Resident Agent	FBI	Billings
Jonathan Windy Boy	Tribal Government	Chippewa Cree	Box Elder
Angela Wood	Psychiatrist	Self – Employed	Big Fork

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.

When possible, the team coordinator attends a combined community response team 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. Individuals interviewed are invited to attend a portion of 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 all 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 over time (5 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 (3½ 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. Members leave the site empty handed.

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.

**Guides
&
Screening Tools**

MONTANA'S MANDATORY REPORTING STATUTE

MCA 2005, Title 41, Chapter 3, Part 201

When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected, they shall report the matter promptly to the department of public health and human services.

(2) professionals and officials required to report are:

- a. A physician, resident, intern, or member of a hospital staff engaged in the admission, examination, care, or treatment of the person;
- b. A nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;
- c. Christian Science practitioners and religious healers;
- d. School teachers, other school officials, and employees who work during regular school hours;
- e. A social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under Section 52-2-711, MCA, or of a child and adult food care program, or an operator or employee of a child-care facility;
- f. A foster care, residential, or institutional worker;
- g. A peace officer or other law enforcement official;
- h. A member of the clergy;*
- i. A guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or
- j. An employee of an entity that contracts with the department to provide direct services to children.

*Except as outlined in 41-3-201 sections (4)(b) and (4)(c).

MEDICAL PROVIDER ABUSE ASSESSMENT SCREEN

1. Have you ever been emotionally or physically abused by your partner or someone important to you?

YES NO

2. Within the last year, have you been hit, slapped, kicked, or otherwise physically hurt by someone?

YES NO

 If YES, by whom? _____ Total number of times: _____

3. Since you've been pregnant, were you hit, slapped, kicked, or otherwise physically hurt by someone?

YES NO

 If YES, by whom? _____ Total number of times: _____

4. Within the last year, has anyone forced you to have sexual activities?

YES NO

 If YES, by whom? _____ Total number of times: _____

5. Are you afraid of your partner or anyone you listed above?

YES NO

ASSESS PATIENT SAFETY

- | | | |
|--|-----|----|
| Is abuser here now? | YES | NO |
| Is patient afraid of their partner? | YES | NO |
| Is patient afraid to go home? | YES | NO |
| Has physical violence increased in severity? | YES | NO |
| Has partner physically abused children? | YES | NO |
| Have children witnessed abuse in the home? | YES | NO |
| Threats of homicide? | YES | NO |
| By whom: _____ | | |
| Threats of suicide? | YES | NO |
| By whom: _____ | | |
| Is there a gun in the home? | YES | NO |
| Alcohol or substance abuse? | YES | NO |
| Was safety plan discussed? | YES | NO |

PHOTOGRAPHS

- | | | |
|-----------------------------|-----|----|
| Consent to be photographed: | YES | NO |
| Photographs taken: | YES | NO |
- Attach photographs and consent form.*

REFERRALS

- | | | |
|-------------------------|-----|----|
| Hotline number given: | YES | NO |
| Legal referral made: | YES | NO |
| Shelter number given: | YES | NO |
| In-house referral made: | YES | NO |
| Describe: _____ | | |
| _____ | | |
| Other referral made: | YES | NO |
| Describe: _____ | | |
| _____ | | |

(In-House Documentation Only)

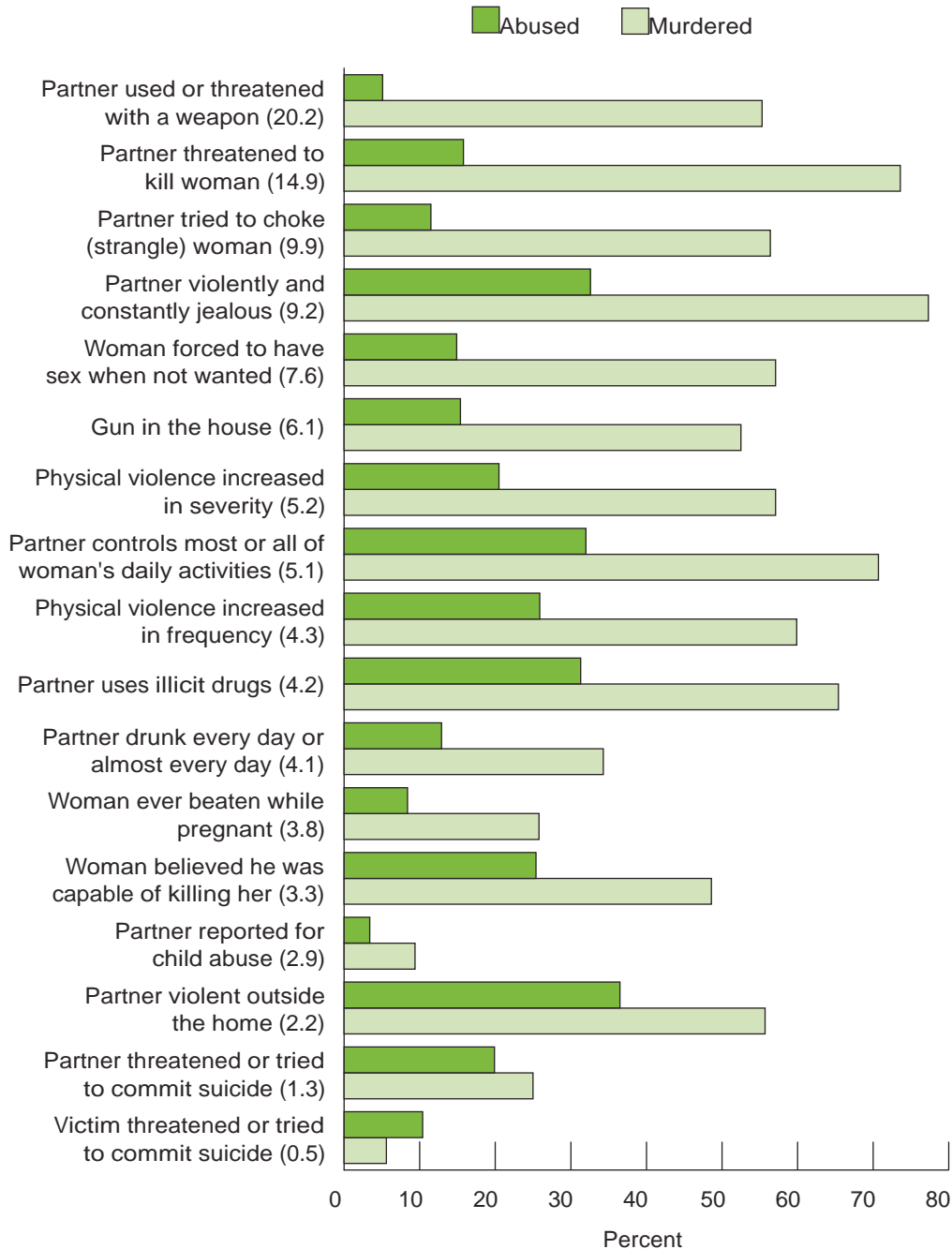
REPORTING

- | | | |
|--|-----|----|
| Law enforcement report made: | YES | NO |
| Child Protective Services report made: | YES | NO |
| Adult Protective Services report made: | YES | NO |



Figure 2: Danger Assessment Risk Factors Among Murder Victims and Abused Women

(The numbers in parentheses are unadjusted odds ratios and indicate the likelihood of being in the homicide versus the abused group.)*



* All items had significant odds ratio (95 percent confidence interval excludes the value of 1), except the last two factors (partner and victim suicidality).

The Danger Assessment study found that women who were threatened or assaulted with a gun were 20 times more likely than other women to be murdered. Women whose partners threatened them with murder were 15 times more likely than other women to be killed.

THE INTERSECTION OF DOMESTIC VIOLENCE AND CHILD ABUSE

A NATIONAL FACT SHEET

INCIDENCE

❖ **It is estimated that between 2.3 and 10 million children are exposed to intimate partner violence each year in the United States.**

[Carlson, B. E. (1984). Children's observations of interparental violence. In A. R. Roberts (Ed.) *Battered women and their families* (pp. 147-167). New York: Springer among a nationally representative sample of American men and women. Paper presented at the Ross Roundtable on "Children and Violence," Washington, D.C.]

❖ **As many as half a million children may be encountered by police during domestic violence arrests each year in the U.S.**

[Office of Juvenile Justice and Delinquency Prevention. (November 2000). *Safe from the start – taking action on children exposed to violence*. (Publication #NCJ182789) Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.]

❖ **There is an overlap of 30 to 60 percent between violence against children and violence against women in the same families. The home can be a dangerous place.**

[Office of Juvenile Justice and Delinquency Prevention. (November 2000). *Safe from the start – taking action on children exposed to violence*. (Publication #NCJ182789) Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.]

❖ **Domestic violence has been shown to occur disproportionately in homes with children under age 5.**

[Taylor, L., Zuckerman, B., Harik, V., & Groves, B. (1994). Witnessing violence by young children and their mothers. *Journal of Developmental and Behavioral Pediatrics* 15 (2), 120–123.]

❖ **Although many adults believe that they have protected their children from exposure to domestic violence, 80-90 percent of children in those homes can give detailed descriptions of the violence experienced in their families.**

[Doyne, S., Bowermaster, J. & Meloy, R. (1999). Custody disputes involving domestic violence: Making children's needs a priority. *Juvenile & Family Court Journal*, 50, (2). Jaffe, P., Wolfe, D., & Kaye Wilson, S. (1990). *Children of battered women*. Thousand Oaks, CA: Sage.]

❖ **Studies have shown that 25 percent of domestic homicides are witnessed by the children of the victim.**

[Doyne, S., Bowermaster, J. & Meloy, R. (1999). Custody disputes involving domestic violence: Making children's needs a priority. *Juvenile & Family Court Journal*, 50 (2). Jaffe, P., Wolfe, D., & Kaye Wilson, S. (1990). *Children of battered women*. Thousand Oaks, CA: Sage.]

CHILDREN EXPOSED TO INTIMATE PARTNER VIOLENCE

National Resource Center on Domestic Violence - 2002

COUNSELING DOMESTIC VIOLENCE VICTIMS A GUIDE FOR CLERGY

Q: What can I do to be helpful if an abusive situation is revealed?

- Listen to the victim and believe him or her. Tell the individual that the abuse is not his or her fault, and it is not God's will.
- Tell the victim that he or she is not alone and that help is available.
- Let him or her know that without intervention, abuse often escalates in frequency and severity over time.
- Seek expert assistance. Refer the person only to specialized domestic violence counseling programs, not to couples counseling. Offer to find a shelter, a safe home, or advocacy resources to offer protection. To suggest that the victim merely return home places the victim and any children in real danger.
- Hold the abuser accountable. Don't minimize the abusive behavior. Assist the person in seeking specialized batterers' counseling to help change the behavior. Continue to hold the abuser accountable and to support and protect the victim even after participation in a counseling program has begun.
- If restoration of the relationship is to occur, it can be considered only after the above steps have taken place.

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MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE AND FEDERAL FIREARMS PROHIBITIONS

Persons who have been convicted in any court of a qualifying misdemeanor crime of domestic violence (MCDV) generally are prohibited under federal law from possessing any firearm or ammunition in or affecting commerce (or shipping or transporting any firearm or ammunition in interstate or foreign commerce, or receiving any such firearm or ammunition). This prohibition also applies to federal, state, and local governmental employees in both their official and private capacities. Violation of this prohibition is a federal offense punishable by up to ten years imprisonment. See 18 U.S.C. § 922(g)(9); see also 18 U.S.C. §§ 921(a)(33), 924(a)(2), 925(a)(1); 27 C.F.R. §§ 178.11, 178.32.

A qualifying MCDV is an offense that:

- Is a federal, state, or local offense that is a misdemeanor under federal or state law;
- Has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon; and,
- At the time the MCDV was committed, the defendant was:
 - A current or former spouse, parent, or guardian of the victim;
 - A person with whom the victim shared a child in common;
 - A person who was cohabiting with or had cohabited with the victim as a spouse, parent, or guardian; or,
 - A person who was or had been similarly situated to a spouse, parent, or guardian of the victim.

EXCEPTIONS: A person has not been convicted of a qualifying MCDV:

- IF the person was not represented by counsel — unless he or she knowingly and intelligently waived the right to counsel;
- IF the person was entitled to a jury trial AND the case was not tried by a jury — unless the person knowingly and intelligently waived the right to jury trial; or,
- IF the conviction was set aside or expunged; the person was pardoned; or, the person's civil rights — the right to vote, sit on a jury, and hold elected office — were restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense).

BUT: This exception does NOT lift the federal firearms prohibition if:

- the expungement, pardon, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms; or,
- the person is otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

FOR FURTHER INFORMATION ABOUT SECTION 922(g)(9) OR FEDERAL FIREARMS PROHIBITIONS GENERALLY, CONTACT YOUR LOCAL FIELD DIVISION OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS BY CALLING (800) 800-3855.

ATF I 3310.3 (09-01)