

**REPORT TO THE LEGISLATURE**  
**MONTANA DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION**  
**JANUARY 2009**

This project was supported by grant 08-W05-90293 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.

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

**Steve Bullock  
Attorney General**



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P.O. Box 201410  
Helena, MT 59620-1410**

January 2009

Fellow Montanans:

The Montana Domestic Violence Fatality Review Commission brings forward its third biennial report. Created by the Montana legislature in 2003, the Commission reviews two domestic violence homicides each year across the state. This report is the summary of our work since January 2007.

There have been at least 22 domestic violence deaths in Montana during this period. Victims of family violence ranged from a 12-year-old boy to two 50-year-old adults. Unfortunately, intimate partner homicide is not diminishing in our state; the number of deaths this biennium is 59 percent higher than last.

Since its inception, the Commission has worked to expand and broaden its understanding of domestic violence homicide. During the past two years deaths involving military personnel, reservation-based Native Americans, a male victim and a workplace killing were all reviewed for the first time. These deaths required interaction with a number of partners, including the federal government and the tribes, creating valuable new relationships. Montana is fortunate to have professionals at every level, in every agency, actively working to understand and reduce domestic violence deaths.

Attorney General Mike McGrath created the Commission and has been a crucial supporter of our work. We are grateful for his guidance and wish him well as Montana's new Chief Justice. The Commission looks forward to working with Attorney General Steve Bullock and members of the 2009 Legislature. Our collective need to stay focused on keeping domestic violence victims safe has not diminished.

Sincerely,

Matthew Dale, Coordinator  
Montana Domestic Violence Fatality Review Commission

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## *Report to the 2009 Legislature*

The 2003 Montana legislature created the Montana Domestic Violence Fatality Review Commission. During the last two sessions, majorities in both houses extended the Commission's work. 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. The group uses its limited time and resources to review only *intimate partner* homicides. Other groups, such as Montana's Fetal Infant Child Mortality Review teams, gather information on other types of familial deaths. In fact, the adult and child fatality review teams began working together for the first time this year. Unfortunately, there are more deaths than the Commission can review each year. Since the passage of House Bill 116 in 2003, at least 64 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.

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. Domestic violence homicides traumatize not only those close to the family but, indeed, entire communities. By reviewing the murders, 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 deaths. The attachments to this report are specific, concrete steps in that direction.

The first domestic violence death of this biennium took place less than an hour into 2007. Eight more deaths occurred before the year ended. The next year, 2008, proved to be an even deadlier year, with 12 adults and one child being killed between February and November. Geographically, the deaths spanned the state, from Libby to Miles City, Havre to Ashland. This biennium was among the most deadly since the Commission began its work. Calendar year 2008 had more intimate partner homicides than any year since record keeping began in 2000.

During the past two years the Commission reviewed four intimate partner homicides. Three of those were single murders and one was a homicide/suicide. Three of the perpetrators were male. The weapon used differed in each death and included a motor vehicle, a firearm, strangulation and a fall from a porch. The age of the victims ranged from 22 to 45. The

homicide/suicide left three children orphaned. Two of the perpetrators were imprisoned and members of the Commission interviewed them as part of those reviews.

One of the reviews involved a Native American victim and the death took place in a reservation community. In choosing this case, the Commission was following up on one of its recommendations in the *2007 Report to the Legislature*, to improve our understanding of reservation-based domestic violence homicides. Eight such deaths occurred in the current biennium. That total surpasses Native American deaths in all previous biennia put together.

Tables and charts in the appendix illustrate Native American overrepresentation in all domestic violence homicide incidents and deaths in Montana. According to 2006 census data, Native Americans make up 6.4 percent of the state's population. However, Native intimate partner deaths comprise 13 percent of the total number of victims. Fortunately, the federal government appears to be devoting increased energy and funding in this area. North Dakota Senator Byron Dorgan, for instance, introduced the Tribal Law and Order Act of 2008 last year and plans to do so again early in the next session. This act would significantly increase the power and breadth of tribal courts.

Acting on concerns that Native American deaths were receiving inadequate follow-up from his office, Montana U.S. Attorney Bill Mercer created and disseminated the Indian Country Federal Crime Case Tracker. Professionals across the state received the form and an accompanying memo from Mr. Mercer in October 2008. All those working with Native American victims of crime are encouraged to use it. A copy of the form is included in the appendix.

Other federal resources were identified through the Commission's review of a homicide that involved military personnel. Alcohol was a contributing factor in this killing and the team learned a great deal about U.S. Department of Defense efforts to reduce alcohol abuse on bases and surrounding communities through the "0013" program. The title refers to zero drinks if you are under 21, zero DUI's, one drink per hour and a maximum of three drinks. Malmstrom Air Force base and the City of Great Falls are currently implementing the program in Montana. More information can be found at [www.usa0013.com](http://www.usa0013.com).

There is other positive news to report in Montana's efforts to protect victims and hold batterers accountable.

- Judges are using creative means to hold those convicted of Partner and Family Member Assault (PFMA) accountable to complete the requirements of their sentence. Great Falls city court judge Nancy Luth, for instance, holds monthly status hearings which require the offender to appear in person to explain his or her progress.
- Legislation passed in 2005 allowed automatic "no contact" orders at the time of arrest for PFMA. The appendix includes a sample order and fact sheet explaining details of the law.

- One hundred fifty two city or justice courts (where most PFMA cases are heard) have implemented FullCourt, an electronic case management system that standardizes court practices and helps hold batterers accountable.
- Each of those courts sends information daily into Montana's new Court Repository where it is stored and shared. The Repository greatly improves the state's ability to track offenders across jurisdictions.
- The Commission was broadened and strengthened through the addition of a Department of Justice Division of Criminal Investigation law enforcement officer.
- The long-awaited Hope Card, an aid to those with permanent Orders of Protection, is expected to be available in February 2009.
- Discussions have begun to allow Montana's Child Sexual Abuse Response Team program (MCSART) to be available to children who lose one or both parents due to domestic violence homicide. Through a variety of professionals, MCSART provides support to traumatized children and their non-offending caregivers.

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. With ongoing support we, along with thousands of other Montanans, will continue our efforts to reduce family violence in our state.

### **Trends identified by the Commission:**

- The number of female perpetrators has increased notably in the past two years.
- There is a significant interaction between alcohol and domestic violence in the majority of the cases reviewed.
- Firearms continue to be the most frequently used weapons.
- Services for domestic violence victims on Native American reservations are frequently nonexistent or inaccessible to many residents.
- Isolation is a major challenge in our state, both for victims of domestic violence and families that require services after a homicide.
- Mental health follow-up services for the children of domestic violence homicide victims appear to be limited and inadequate.
- Ongoing dialogue between tribal, federal and state prosecution teams is required in order to limit jurisdictional conflicts.
- Inconsistent communication between district courts and lower courts regarding Orders of Protection may put victims at risk.

### **Commission recommendations include:**

- Expand use of the Department of Defense's 0013 program to additional communities across the state.
- Require mandatory fingerprinting for all "stackable" misdemeanor offenses, including domestic violence.
- Increase the scope of the MCSART program to include children who lose one or both parents in a domestic violence homicide.
- Help tribal courts get resources to acquire technology to track prior offenses and to exchange electronic records across departments. If desired, this same technology can then be used to share records with other tribes and/or the state CJIN system.
- Improve/increase supervision of those convicted of PFMA through regular contact with the sentencing judge. A model program for status hearings exists in Judge Nancy Luth's court in Great Falls.
- Encourage law enforcement to note and take appropriate action when a firearm is used or threatened in a domestic violence episode.
- Create and implement a domestic/dating violence education program in schools.
- Increase training on the importance of tracking the Order of Protection process from lower courts to district courts.
- Expand use of the Hope Card across the state and across all reservations.
- Remove the Commission's temporary designation and make the enabling statute permanent.

## INTIMATE PARTNER HOMICIDES SINCE 2000

<b>LAST NAME</b>	<b>FIRST NAME</b>	<b>FATALITY LOCATION</b>	<b>AGE</b>	<b>DATE OF DEATH</b>	<b>TYPE OF DEATH</b>
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
Wolfname, Jr.	Anthony	Busby	28	02/23/03	Homicide
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
Johnson, Jr.	George	Billings	59	01/02/04	Homicide
Zumsteg	Deborah	Billings	41	03/01/04	Homicide / Suicide
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	52	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
Anderson	Lawrence	Opportunity	45	02/21/06	Homicide
Vasquez	Joe	Billings	32	04/03/06	Homicide
Van Holten	JoLynn	Dillon	43	04/12/06	Homicide/Suicide
Spotted Bear	Susie	Browning	46	08/13/06	Homicide/Suicide
Eagleman	Donald	Brockton	22	01/01/07	Homicide
George	Kimberly Ann	St. Xavier	35	02/11/07	Homicide
Costanza (James)	Mychel	Billings	50	02/12/07	Homicide
Caron	Tarisia	Evergreen	18	05/01/07	Homicide
Stout	William	Darby	50	06/10/07	Homicide
Whitedirt	Herbie	Lame Deer	41	11/03/07	Homicide
Smith	Jody	Hungry Horse	46	12/09/07	Homicide
Plough	Robert	Libby	49	12/28/07	Homicide/Suicide



## INTIMATE PARTNER HOMICIDES SINCE 2000 (cont.)

Drinkwalter	Seth	Billings	30	02/08/08	Homicide
Small	Troy	Kirby	35	02/11/08	Homicide
Calf Boss Ribs	Kimberly	Havre	21	03/15/08	Homicide
Morin	Lorraine	Columbia Falls	45	03/16/08	Homicide
Wooden Thigh	Rosella	Ashland	32	05/05/08	Homicide
Laslo	Alexia	Plains	37	08/09/08	Homicide/Suicide + 1 Child (12)
Morris	Janeal	Arlee	48	10/25/08	Homicide/Suicide
Woods	Catherine	Miles City	26	11/22/08	Homicide/Suicide
Robinson	Andrew	Wolf Point	37	11/26/08	Homicide

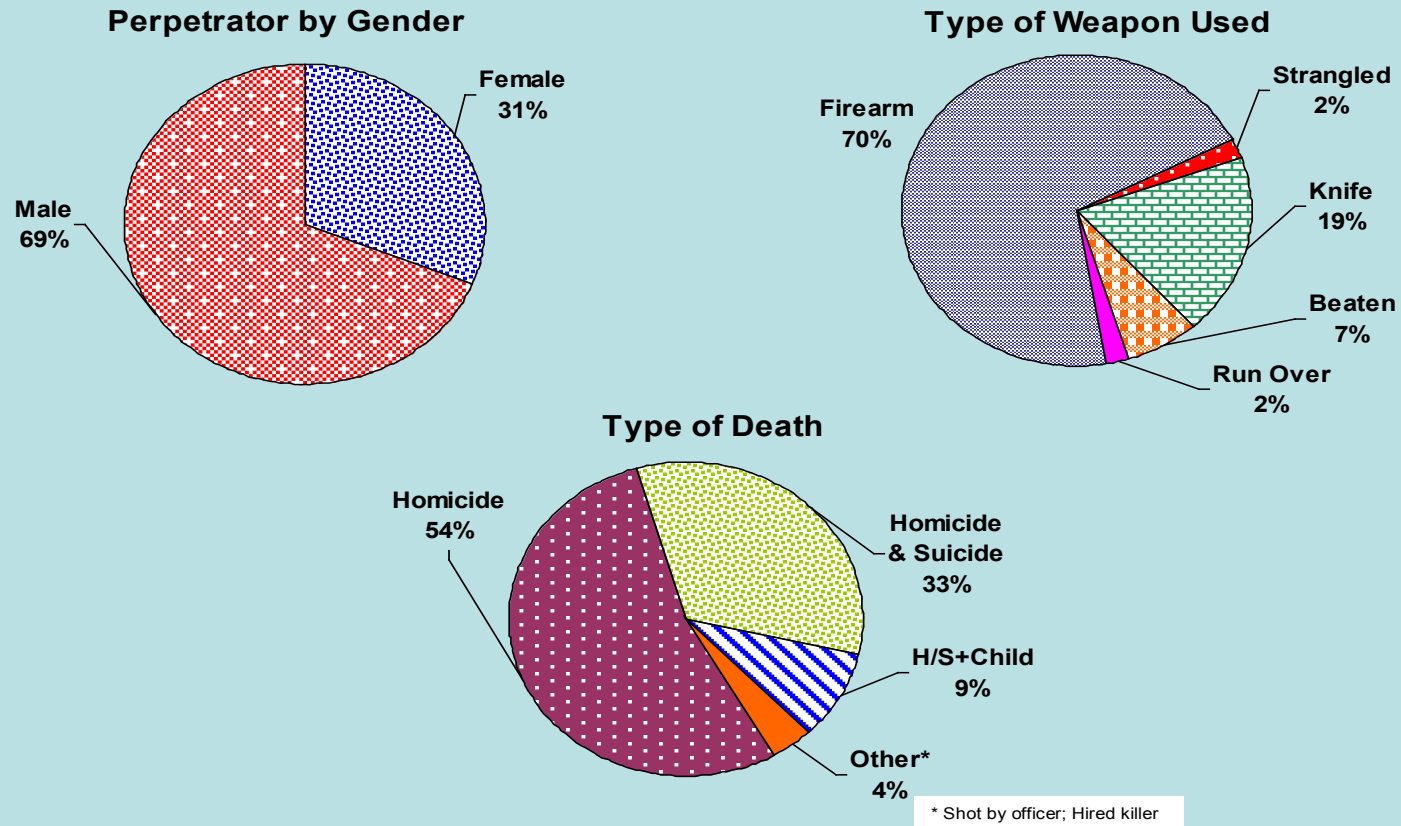
## INTIMATE PARTNER HOMICIDES SINCE 2000/WEAPON USED

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
Wolfname, Jr.	Anthony	28	02/23/03	Homicide	Knife
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
Johnson, Jr.	George	59	01/04/04	Homicide	Knife
Zumsteg	Deborah	41	03/01/04	Homicide / Suicide	Firearm
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	52	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
Anderson	Lawrence	45	02/21/06	Homicide	Run over
Vasquez	Joe	32	04/03/06	Homicide	Knife
Van Holten	JoLynn	43	04/12/06	Homicide/Suicide	Firearm
Spotted Bear	Susie	46	08/13/06	Homicide/Suicide	Kick to head
Eagleman	Donald	22	01/01/07	Homicide	Knife
George	Kimberly Ann	35	02/11/07	Homicide	Head injury
Costanza (James)	Mychel	50	02/12/07	Homicide	Firearm
Caron	Tarisia	18	05/01/07	Homicide	Firearm
Stout	William	50	06/10/07	Homicide	Firearm
Whitedirt	Herbie	41	11/03/07	Homicide	Firearm
Smith	Jody	46	12/09/07	Homicide	Firearm
Plough	Robert	49	12/28/07	Homicide/Suicide	Firearm

## INTIMATE PARTNER HOMICIDES SINCE 2000/WEAPON USED (cont.)

Drinkwalter	Seth	30	02/08/08	Homicide	Knife
Small	Troy	35	02/11/08	Homicide	Knife
Calf Boss Ribs	Kimberly	21	03/15/08	Homicide	Beaten to death
Morin	Lorraine	45	03/16/08	Homicide	Firearm
Wooden Thigh	Rosella	32	05/05/08	Homicide	Firearm
Laslo	Alexia	37	08/09/08	Homicide/Suicide + 1 child	Firearm
Morris	Janeal	48	10/25/08	Homicide/Suicide	Firearm
Woods	Catherine	26	11/22/08	Homicide/Suicide	Firearm
Robinson	Andrew	37	11/26/08	Homicide	Knife

## Profile of Domestic Violence Homicides in Montana Since 2000 (N=48)



## **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](mailto: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

<b>Name</b>	<b>Position</b>	<b>Organization</b>	<b>City</b>
Deb Bakke	Legal Advocate	Friendship Center	Helena
Phoebe Blount	Victim Specialist	FBI	Glasgow
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
Caroline Fleming	Executive Director	Custer Network Against DV	Miles City
Kelly Hart	Staff Assistant	Montana Legal Services	Helena
Connie Harvey	DPHHS Supervisor	Children & Family Services Division	Billings
Warren Hiebert	Chaplain	Gallatin County Sheriff's Dept.	Bozeman
Nancy Luth	Judge	Great Falls City Court	Great Falls
Christine Mandiloff	Attorney	Montana Legal Services	Helena
Joan McCracken	Sexual Assault Nurse Examiner	Retired	Billings
Stewart Stadler	District Judge	State of Montana	Kalispell
John Strandell	Criminal Investigator	Department of Justice	Helena
Judy Wang	Prosecutor	City of Missoula	Missoula
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.

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 (excepting family members) 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  
&  
Model Forms**



**IN THE MUNICIPAL COURT, CITY OF GREAT FALLS  
CASCADE COUNTY, STATE OF MONTANA  
BEFORE CURRENT JUDGE, MUNICIPAL COURT JUDGE**

<p>CITY OF GREAT FALLS Plaintiff,</p> <p>vs.</p> <p>Defendant Name Defendant.</p>	<p style="text-align: center;"><b>ORDER SETTING STATUS HEARING</b></p> <p>DOCKET NO. Case Number</p>
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You, the defendant in this action, are hereby notified that the above case has been set by order of the Court, in Great Falls Municipal Court for a status hearing on \_\_\_\_\_ at \_\_\_\_\_.

You must appear PERSONALLY and be ready on the above date and time. If you do not appear the hearing will be held without you, after ruling by the Judge, and a warrant for your arrest may be issued.

  
\_\_\_\_\_  
**NANCY J. LUTH**, MUNICIPAL COURT JUDGE

BY: Your Initials

**Acknowledgment:** I hereby acknowledge notice of the above hearing date and my responsibility to be present at that time and place.

\_\_\_\_\_ Dated

## Montana Code Annotated - 2007

**40-15-301. Jurisdiction and venue.** (1) District courts, justices' courts, municipal courts, and city courts have concurrent jurisdiction to hear and issue orders under [40-15-201](#).

(2) When a dissolution of marriage or parenting action involving the parties is pending in district court, a person may file a petition for an order of protection in a justice's, municipal, or city court only if the district court judge assigned to that case is unavailable or if the petitioner, to escape further abuse, left the county where the abuse occurred. The petitioner shall provide a copy of relevant district court documents to the justice's, municipal, or city court, along with the petition. The justice of the peace, municipal court judge, or city court judge shall immediately certify the pleadings to the original district court after signing an order of protection under this subsection. The district court shall conduct the hearing unless both parties and both courts agree that the hearing may be conducted in the court of limited jurisdiction. If the district court is unable to conduct a hearing within 20 days of receipt of the certified pleadings, it shall conduct a hearing within 45 days of the receipt of the pleadings, unless the hearing is continued at the request of either party for good cause or by the court. If the hearing is continued, the order of protection must remain in effect until the court conducts the hearing.

(3) If one of the parties to an order of protection files for dissolution of marriage or files a parenting action after the order of protection is filed but before the hearing is conducted, the hearing must be conducted in the court in which the order of protection was filed. Either party may appeal or remove the matter to the district court prior to or after the hearing. If the district court is unable to conduct a hearing within 20 days of receipt of the certified pleadings, the district court shall conduct a hearing within 45 days of receipt of the pleadings. The hearing may be continued at the request of either party for good cause or by the court. If the hearing is continued, the order of protection must remain in effect until the court conducts the hearing.

(4) An action brought under this chapter may be filed in the county where the petitioner currently or temporarily resides, the county where the respondent resides, or the county where the abuse occurred. There is no minimum length of residency required to file a petition under this chapter.

(5) The right to petition for relief may not be denied because the petitioner has vacated the residence or household to avoid abuse.

(6) An order of protection issued under this section is effective throughout the state. Courts and law enforcement officials shall give full faith and credit to all orders of protection issued within the state.

(7) A certified copy of an order of protection from another state, along with proof of service, may be filed in a Montana court with jurisdiction over orders of protection in the county where the petitioner resides. If properly filed in Montana, an order of protection issued in another state must be enforced in the same manner as an order of protection issued in Montana.

## FACT SHEET

### No Contact Orders

#### **What is a No Contact Order?**

A No Contact Order (Montana Code Annotated Section 45-5-209) tells a person charged with the offense of partner/family member assault that s/he cannot have contact with any victims of the crime. The purpose of the No Contact Order is to discourage the defendant from contacting the victim after the defendant is arrested/charged.

#### **What kind of contact can a No Contact Order prevent?**

A No Contact Order can prohibit any of the following kinds of contact:

- in person (by disallowing the offender from coming near the victim, up to 1,500 feet)
- by a 3<sup>rd</sup> party
- by telephone
- by electronic communication
- in writing

Each contact or attempt to make contact with each protected person, directly or indirectly, is a separate offense. Consent of the protected person to prohibited contact is not a defense. A protected person may not be charged with a violation of this offense.

#### **How long does a No Contact Order last?**

A No Contact Order lasts for 72 hours or until the offender makes a first appearance in court.

#### **How is a No Contact Order put into place?**

- A judge can put a No Contact Order in to place when a person who commits the offense of partner/family member assault is charged, or at any court appearance of that person (including sentencing).
- The appropriate judge in each community also has the authority to issue “Standing No Contact Orders”.
  - A “Standing No Contact Order” means that ANY person charged with partner/family member assault will be informed by law enforcement both orally and in writing that there is an automatic No Contact Order placed against him/her.
  - Law enforcement will tell the offender about the No Contact Order and give him/her a copy of the written order at the time of their arrest. A copy is also filed with the court. The victim usually is not given a copy unless s/he goes to the court to request a copy.
  - Advocates should contact their local courts to ask if the judges have issued “Standing No Contact Orders”. Advocates can also work to educate the local police about the use of the orders

#### **Is a No Contact Order different than an Order of Protection?**

Yes. The following table shows how the two orders are different.

<b>No Contact Order</b>	<b>Order of Protection</b>
<p>Allowed in the <b>criminal</b> law system, which involves the handling of all partner/family member assault crimes. In the criminal law system, prosecutors represent the State of Montana, which is the Plaintiff. The other person who is charged with the crime is the Defendant.</p>	<p>Allowed in the <b>civil</b> law system, which involves people bringing claims against other people. In the civil law system, the person bringing the claim is the Petitioner and the other person is the Respondent.</p>
<p>There is no formal way for a victim partner/family member assault to ask a judge for a No Contact Order.</p>	<p>A victim of abuse, sexual assault, and/or stalking can formally ask a judge for an Order of Protection by filing a petition for such an order.</p>
<p>A judge can only put a No Contact Order into place when a person is charged with the crime of partner/family member assault.</p>	<p>There are many situations in which a judge can put an Order of Protection into place. There is no requirement that a person be charged with a crime in order for a victim to be eligible for an Order of Protection.</p>
<p>A victim has very little say in when and how a No Contact Order is put into place.</p>	<p>A victim has a lot of say in when and how an Order of Protection is put into place.</p>
<p>A No Contact Order can be in place for a varying length of time, but the order usually will end when the offender's criminal case for partner/family member assault is resolved.</p>	<p>An Order of Protection can be in place for a varying length of time and can be in place whether or not there is a current, on-going criminal case.</p>
<p>A No Contact Order can only prohibit an offender from contacting certain people.</p>	<p>An Order of Protection can prohibit an offender from contacting certain people and can also command the offender to do things, such as attend counseling, pay the victim money, follow a temporary parenting plan (in district courts only), etc.</p>
<p>The system for enforcing an Order of Protection is better developed than the system for enforcing a No Contact Order. This means that in some cases it may be easier for law enforcement to enforce an Order of Protection.</p>	<p>The system for enforcing an Order of Protection is better developed than the system for enforcing a No Contact Order. This means that in some cases it may be easier for law enforcement to enforce an Order of Protection.</p>

**If there is a No Contact Order in place against an offender, should a victim also try to get an Order of Protection?**

Yes. There are several reasons why it is a good idea for a victim to petition for an Order of Protection even if there is a No Contact Order in place. The reasons include:

- It may be easier for law enforcement officers to tell whether there is an Order of Protection currently in place than if there is a No Contact Order currently in place. Therefore, it is more likely law enforcement officers can and will enforce an Order of Protection.
- A No Contact Order will usually end when the criminal case against the offender is resolved. An Order of Protection can be put into place at any time and can help protect the victim even after a criminal case is over.
- A victim can ask for certain things (support money, mandatory counseling for the offender, etc) through an Order of Protection that are not possible through a No Contact Order.

For more information, please contact:

**Christine Mandiloff, Attorney**  
**Montana Legal Services Association**  
**616 Helena Ave., Ste. 100**  
**ph: (406) 442-9830 x18 or 1-800-666-6124 x 18**  
**fax: (406) 442-9817**

*This fact sheet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. This fact sheet may not apply to your problem. You should not rely on it only. Please talk to an attorney about your problem*

IN THE JUSTICE COURT OF RECORD  
 CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA  
 BEFORE WALLACE A. JEWELL, JUSTICE OF THE PEACE

STATE OF MONTANA,	)	
	)	DR / CFS / CASE #
Plaintiff,	)	
v.	)	<b>NO CONTACT ORDER</b>
	)	
_____	)	
Defendant.	)	
DOB: _____ SSN: _____	)	
_____	)	

**TO:** All Law Enforcement Officers in Lewis and Clark County; You are hereby directed to serve a copy of this order upon any person charged with a violation of Partner or Family Member Assault in violation of section 45-5-206, MCA, and make return of the original in the manner provided by law.

**TO THE DEFENDANT:** You have been charged with an assault on a partner or family member in violation of section 45-5-206, MCA. **IT IS HEREBY THE ORDER OF THIS COURT** that **YOU SHALL NOT** have any contact with \_\_\_\_\_, DOB: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ the alleged victim(s) of this offense. This means that you shall not contact this person by phone, you shall not email this person, you shall not contact this person in person, you shall not contact this person by any means of electronic communication, and you shall not contact this person through a third-party. You shall not contact this person for any reason by any means. You shall stay at least 1500 feet away from this person wherever this person may be. This no contact order shall remain in full force and effect for 72 hours or until you make your first appearance in court. Violation of this order is a criminal offense under section 45-5-209, MCA, and may result in your arrest. You may be arrested even if the person protected by this order invites you or allows you to violate the prohibitions. Conviction of a violation of this order is punishable by up to 6 months in jail, a \$500 fine, or both.

\_\_\_\_\_  
 Wallace A. Jewell, Justice of the Peace  
 A copy of this order was received this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Return: A copy of this order was **READ TO AND SERVED UPON** the defendant at approximately \_\_\_\_\_ hours on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (address).

\_\_\_\_\_  
 Printed name of officer and rank

\_\_\_\_\_  
 Signature

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## Hope Cards (available February 2009)

The Hope Card allows someone who has been granted an order of protection in one jurisdiction to easily prove it in another jurisdiction.

The Hope Card lets law enforcement know that there is a valid, permanent order of protection in place. In case of a potential violation of an order, a law enforcement officer can refer to the Hope Card for more information.

- A Hope Card is not a substitute for an order of protection.
- The card includes relevant information related to a valid permanent order of protection.
- It is small and durable, and can be easily carried in a wallet, pocket or purse.
- Hope Cards are not issued for temporary orders of protection.

In Montana, Hope Cards will be issued by the Crow Tribal Court, the Confederated Salish and Kootenai Tribal Court and the state of Montana. While the cards differ slightly, they must be recognized by law enforcement officers throughout the state.

### Features

The Hope Cards issued by the state of Montana will contain information about the protected person and the order:

- the protected person's name, birth date, sex, race and height
- the case number listed on the permanent order of protection, the issuing court and county, the date it was issued and any expiration date

The card provides information about the person named in the order, and any children or other individuals who are also protected under the order:

- the respondent's photo, name, birth date, sex, race, eye and hair color, height, weight and any distinguishing features like scars or tattoos
- the names and birth dates of any children or other individuals who are also protected under the order

### How to Request a Hope Card

Hope Cards will be available to anyone with a valid, permanent order of protection. Cards will also be available for any children or other individuals covered by the order. You may request more than one card per individual if, for example, you wish to provide one to a child's school and another to the child's after-school care program.

Hope Cards are not issued based on temporary orders of protection.

### Contact

For additional information about the Hope Card program, contact:

Joan Eliel, Hope Card Administrator  
Office of Victim Services  
(406) 444-5803  
E-mail: [jeliel@mt.gov](mailto:jeliel@mt.gov)



# Memorandum

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<b>Subject:</b>	<b>Date:</b>
<b>IMPLEMENTATION OF INDIAN COUNTRY FEDERAL CRIME CASE TRACKER</b>	October 10, 2008
	WWM:SKF

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<b>To:</b>	<b>From:</b>
Tribal Chairs Tribal Judges Tribal Prosecutors Tribal Police Chiefs Victim-Witness Personnel in Indian Country Domestic Violence Prevention/ Advocacy Personnel in Indian Country Tribal Social Services Personnel Indian Health Service/Tribal Health Board Unit Directors	Bill Mercer United States Attorney P.O. Box 1478 Billings, MT 59103 <a href="mailto:bill.mercer@usdoj.gov">bill.mercer@usdoj.gov</a> Phone: (406) 247-4639 FAX: (406) 657-6055  Maylinn Smith, Director Indian Law Clinic School of Law The University of Montana Missoula, MT 59812-6552 <a href="mailto:maylinn.smith@umontana.edu">maylinn.smith@umontana.edu</a> Phone: (406) 243-2544 FAX: (406) 243-2132

In 2008, the U.S. Attorney's Office and the Indian Law Clinic began on-going discussions regarding the creation of a mechanism to ensure that matters which appear to you to constitute federal crimes are identified by individuals in tribal departments and programs in regular disclosures to the U.S. Attorney, whether or not you believe the FBI or BIA is already investigating the matter.

In its work, the Indian Law Clinic hears from tribal members and tribal government personnel regarding their views about perceived inattention to matters which merit federal investigation and prosecution. In the course of your work, you may become aware of matters which should be referred to investigative agencies and the U.S. Attorney's Office for investigation and possible federal prosecution. With respect to Indian Country crimes, it is fairly rare that the U.S. Attorney's Office becomes aware of investigations or potential investigations unless an investigative agency forwards a report to the U.S. Attorney seeking a prosecution or a report which explains why a prosecution should not be undertaken.

After discussions with the Indian Law Clinic, we concluded that there would be value in creating a monthly reporting mechanism from Tribes directly to the U.S. Attorney to ensure all potential

federal crimes, particularly violent crimes, are known to the U.S. Attorney's Office for follow-up and tracking with the appropriate investigative agencies. This type of information will enhance accountability for federal law enforcement efforts within Indian Country and will be invaluable in interactions between the U.S. Attorney's Office and federal investigators. **AS SHOULD BE EVIDENT, THIS IS NOT A SUBSTITUTE FOR REGULAR AND TIMELY REPORTING OF CRIMES TO TRIBAL POLICE, BIA AND THE FBI. THIS NEW PROCESS IS DESIGNED TO FACILITATE THE INTERAGENCY TRACKING OF CRIMINAL MATTERS.**

Attached is a copy of the tracking form developed to facilitate this communication. If you wish to submit this information to the U.S. Attorney electronically, please call or e-mail Sally Frank ([sally.frank@usdoj.gov](mailto:sally.frank@usdoj.gov) or (406) 247-4638) and she will email the report template to you. You may instead fax the form to the U.S. Attorney's Office at (406) 657-6055 or mail it to the address listed above.

We have attached a summary of the federal offenses and the elements necessary to prove each of the crimes if they (1) occur in Indian Country and (2) an Indian person is the perpetrator and/or the victim. Even if you have extensive experience in this area, I urge you to review the document because Congress has created a number of new crimes applicable to Indian Country in two recently adopted laws, the Adam Walsh Act and the reauthorization of the Violence Against Women Act.

With twenty-four Assistant U.S. Attorneys, you should also assume that the U.S. Attorney's Office in Montana is committed to the prosecution of viable cases for most of the statutes listed in the summary, including all cases under the Major Crimes Act.

It is our belief that submission of this form by the appropriate tribal departments and programs on a regular basis will help to ensure that all potential federal crimes in Indian Country are investigated in a timely fashion and referred for prosecution where the investigation yields adequate evidence to prove the crime beyond a reasonable doubt. If you believe other individuals should be invited to participate in this reporting process, please let either one of us know.

Submit monthly by mail to the Office of the U.S. Attorney, District of Montana, P.O. Box 1478, Billings, Montana 59103,  
or by fax ((406) 657-6055), or by e-mail ([bill.mercer@usdoj.gov](mailto:bill.mercer@usdoj.gov)).

Indian Country Felony Case Tracker for the _____ Nation/Reservation for _____, 20____.											
Case Information						Tribal Court Information (if subject was prosecuted for the same act in Tribal Court)					
						Prosecution Disposition			Sentencing		
Name of Subject	Name of Victim	Date of Offense	Federal Offense Committed by Statute	Subject Criminal History	Lead Investigative Agency/Other Agency	Offenses Charged	Guilty	Acquitted	Pre-Trial Diversion	#Months of Incarceration	Other Sentencing Outcomes (Note)
Joe Smith	Jan Smith	2/29/2008	18 USC 1153	N/A	BIA						