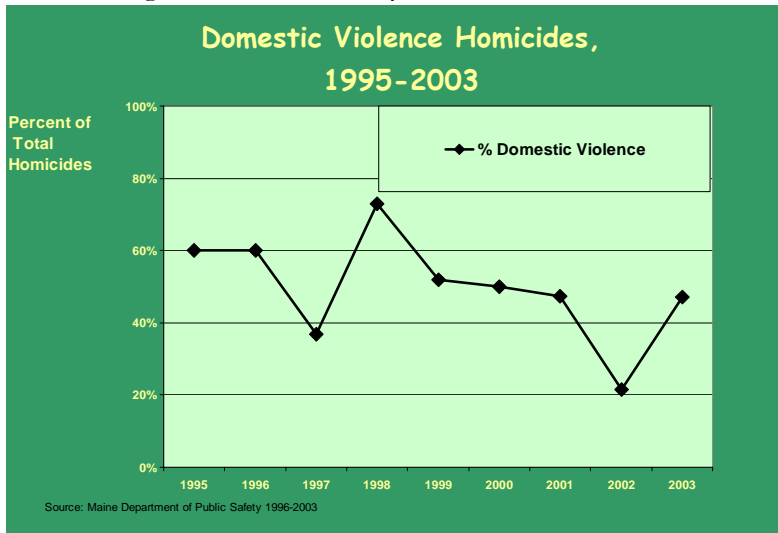


DOMESTIC VIOLENCE AND FIREARMS

This brief examines the relationship between domestic violence and firearms in Maine. Domestic violence is considered by law enforcement officials to be the number one crime problem in the state, but little data have been gathered about how Maine offenders use firearms to intimidate an intimate partner or family member. This brief includes data from research conducted by the U.S. Attorney's Office in Maine in cases where the offenders threatened the use of a firearm against their victims and a final Protection from Abuse order was issued.

In 2003, the number of reported domestic violence assaults in Maine reached a ten-year high. In 2003, reported domestic violence assaults increased 11.4% to a total of 5,364 crimes. This is the highest number of domestic violence assaults reported in 10 years and is 30% higher than the total in 1994. These reported domestic violence assaults also represent a higher percentage of all assaults in the state today than over the last ten years. In 2003, reported domestic violence assaults represented 45.8% of all assaults, 4.6% higher than 2001 – the next highest year.

Domestic violence also involves other crimes. The majority of murders in Maine over the last nine years have been committed by an individual against another family or household member.¹



¹Family or household members means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of any household member when the offender is an adult household member. See: 19-A M.R.S.A. § 4002(4) "Domestic Partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare. See *Maine Criminal Statutes, 2004-2005 Edition*, Title 15, Chapter 12-A, p. 317.

May 2005

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This brief is part of Project Safe Neighborhoods Maine (PSN Maine). PSN Maine is coordinated by the U.S. Attorney's Office, and includes among its members the following:

- 5 Police Departments (spread throughout the state)
- Androscoggin County Weed & Seed Site
- Bureau of Alcohol, Tobacco, Firearms & Explosives
- CD & M Communications
- City of Calais Weed & Seed Site
- Federal Firearms Licensees and Firearms Experts
- Lincoln County Weed & Seed Site
- LL Bean
- Maine Chiefs of Police Association
- Maine Citizens Against Handgun Violence
- Maine Coalition to End Domestic Violence
- Maine Department of Corrections
- Maine Department of Education
- Maine Department of Public Safety
- Maine Office of Attorney General
- Maine Prosecutor's Association
- Maine Sheriff's Association
- Maine Warden Service (Inland, Fisheries & Wildlife)
- Muskie School of Public Service
- National Rifle Association (NRA)
- Resource Officers Association for Maine Schools (ROAMS)
- Sagadahoc County Weed & Seed Site
- Sportsman Alliance of Maine (SAM)
- United States Attorney's Office, District of Maine
- Violence Intervention Partnership, Cumberland County Government
- Volunteers of America

54% of domestic violence homicides were committed with a firearm. Intimate partner violence against women is all too common and takes many forms of which the most serious is homicide. Guns in the hands of offenders can easily turn domestic violence into domestic homicide. A 2001 study by the Centers for Disease Control and Prevention (CDC) on homicide among intimate partners found that female intimate partners are more likely to be murdered with a firearm than all other means combined. The study concluded: “the figures demonstrate the importance of reducing access to firearms in households affected by IPV [intimate partner violence].”²

In Maine, the link between domestic violence and the threat to use firearms remains strong. Between 1996 and 2003, nearly 30 percent of all homicides were domestic violence homicides committed with a firearm. Moreover, on average, 54 percent of homicides with a firearm are domestic violence related. In 2000, domestic violence homicides accounted for all firearm murders.

A 1997 Archives of Internal Medicine study, that examined the risk factors of violent death for women in the home in three United States counties, found that when there were one or more guns in the home, the risk of homicide increased more than three times. The increased risk of homicide associated with firearms was attributable to homicides at the hands of a spouse, intimate acquaintance, or close relative. Furthermore, a gun in the home is a key factor in the escalation of nonfatal spousal abuse to homicide. In a study of family and intimate assaults in Atlanta, firearm related family and intimate assaults were 12 times more likely to result in death than non-firearm related assaults.³

Domestic abusers also used guns to threaten and intimidate family members. In a 2000 study, Harvard School of Public Health researchers analyzed gun use at home, and concluded that “hostile gun displays against family members may be more common than gun use in self-defense, and that hostile gun displays are often acts of domestic violence directed against women.”⁴

Unfortunately, the relationship between domestic violence and firearms is not easily captured in statewide data collection. It is difficult to track the number of individuals who threaten the use of a firearm, particularly in abusive relationships, because the threat almost always occurs behind closed doors where there are no witnesses. However, recent research conducted by the U.S. Attorney’s Office for the District of Maine suggests a significant percentage of domestic abusers use firearms to threaten their victims. An initial examination of Protection from Abuse orders (PFAs) issued in Portland District Court in a nine month period in 2002 revealed that information regarding the defendant's history of violence and firearm possession were much more likely to be documented in the Service Affidavit (a document prepared by the plaintiff to assist the police in the service of the PFA) than in the PFA complaint. The Maine state judiciary reacted promptly to these findings and in September 2003 added three supplemental questions to the PFA complaint form to try and ensure that the judge presiding over the PFA process would have access to relevant firearm information. The three questions added were: 1. Does the defendant have access to a firearm? 2. Does the defendant possess a firearm? 3. Has the defendant ever used a firearm in an intimidating, threatening or abusive way?

The U.S. Attorney’s Office conducted a subsequent study of PFAs after the three questions were added. This study reviewed orders issued in five district courts over a six-month period in 2003-2004 found

² Leonard J. Paulozzi et al, “Surveillance for Homicide Among Intimate Partners—United States, 1981-1998,” *Morbidity and Mortality Weekly Report (MMWR) Surveillance Summaries* 50 (October 12, 2001): 1-16.

³ Linda E. Salzman et al., “Weapon Involvement and Injury Outcomes in Family and Intimate Assaults,” *JAMA* 267, no. 22 (1992): 3043-3047.

⁴ Deborah Azrael and David Hemenway, “In the Safety of Your Own Home?: Results from a National Survey on Gun Use at Home,” *Social Science & Medicine* 50 (2000): 285-291.

that in 18% of the cases where a final PFA was issued, the defendant threatened to use a firearm against the victim. Applying the 18% firearm threat rate to the total number of final PFA orders issued (2,359) in Maine in 2004, it is estimated that 425 defendants threatened to use a firearm against their victims in 2004. Since PFA cases represent only a subset of households experiencing domestic violence, the number of victims threatened with a firearm is likely significantly higher. By contrast, the number of violent crimes with a firearm reported under the Uniform Crime Report totaled only 92 in 2003.⁵ The U.S. Attorney's Office study demonstrates that the threatened use of a firearm against an intimate partner or family member far exceeds the number of reported violent crimes with a firearm in Maine.

Maine state law mirrors federal law regarding possession of firearms by persons subject to qualifying PFAs. In the 1990s, a major provision was added to federal law to help prevent domestic abusers from obtaining firearms. In 1993, the late Senator Paul Wellstone (D-MN) attached an amendment to the Violent Crime Control and Law Enforcement Act to prohibit individuals who are the subject of a protective order involving domestic violence from buying or possessing firearms.⁶ The Wellstone amendment became law in 1994. Nineteen states, including Maine, supplement this federal prohibition with a similar state law.

The share of NICS denials for persons with a domestic violence conviction and/or a PFA order has increased since 1999. These laws are enforced in part by the Brady Law background checks performed on firearm transactions conducted through Federal Firearms License holders (FFLs). In 2002, the most recent year for which data are available, domestic violence accounted for approximately 18 percent of rejected firearm transfers across the country.⁷ In Maine, however, that share is much higher. Since 1999, the percent of National Instant Criminal Background Check System (NICS) denials in Maine for persons with a domestic violence conviction⁸ and/or a PFA order has increased to nearly 30 percent.

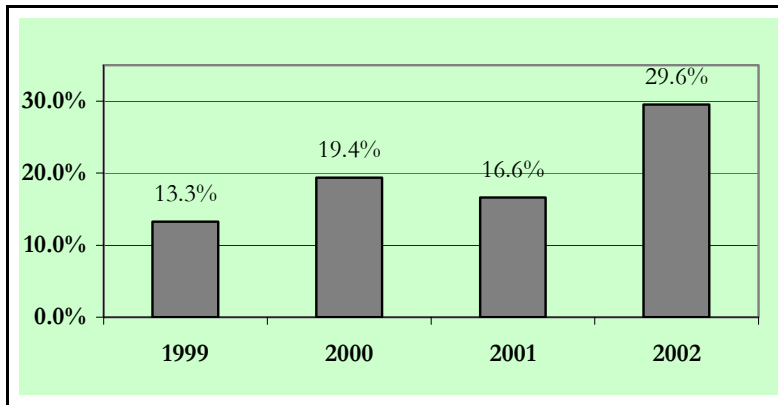
⁵ UCR only reports firearm totals for homicides, robberies and aggravated assaults.

⁶ Under federal law, it became illegal for a person to possess a firearm while subject to a court order restraining such person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner. The protection order must have been issued following a hearing in which the defendant had notice and an opportunity to appear. The protection order must also include a specific finding that the defendant represents a credible threat to the physical safety of the victim, or must include an explicit prohibition against use of force that would reasonably be expected to cause injury.

⁷ Bowling, M., Lauver, G., Hickman, M., and Adams, D., *Background Checks for Firearm Transfers, 2002*, Bureau of Justice Statistics Bulletin, September 2003, NCJ 200116.

⁸ In 1996, Senator Frank Lautenberg (D-NJ) sponsored a provision prohibiting individuals with misdemeanor domestic violence convictions from purchasing or possessing firearms, strengthening the law which previously applied only to felony offenders. Twenty states have comparable state law prohibitions, but not Maine.

Percentage of NICS denials in Maine for a DV conviction or a PFA order 1999-2002



RECOMMENDATIONS

These trends suggest a need to continue efforts to keep firearms out of the hands of domestic abusers and those with PFA orders against them. Firearms are being used in many households as a weapon of intimidation. PSN Maine supports the following efforts to combat domestic violence:

Increased awareness of the need for data sharing (see, in part, recommendations from the Maine Governor's Advisory Council on the Prevention of Domestic and Sexual Violence, <http://www.state.me.us/dps/DomesticViolence.html>). In 2004, the Governor created an advisory council by Executive Order to examine issues of domestic and sexual abuse. The Council recommended a series of steps state agencies can take to provide more accurate and current information to criminal justice agencies on offenders. For example, the use of the arrest tracking number and the charge tracking number will help officials identify offenders more rapidly, and may help identify potential connections to other crimes. Maine PSN endorses efforts to link all components of the criminal justice system so that common data can be transmitted electronically instead of manually. This improvement will have immediate benefits across a range of criminal justice initiatives, including keeping domestic abusers away from their victims and ensuring that offenders are not in possession of firearms.

Continued funding for the Domestic Violence Case Coordination Project. The Maine District Court established a Domestic Violence Case Coordination Project in 2002. Currently, there are five courts in four counties (York, Cumberland, Kennebec, and Somerset counties), with the goals of the project to: 1) improve the information management systems that pertain to domestic violence cases and 2) enhance offenders' accountability for their actions. Among these courts, judges require the defendants to return for regular review hearings to monitor their compliance with current orders. Agencies that traditionally monitor defendants, such as probation and certified batterers' programs, report regularly to the court on a defendant's compliance with court-ordered mandates. Victims are offered opportunities to be involved in the monitoring process, are informed of the process for reporting violations, and are notified of any non-compliance and imposed sanctions. These courts are an important part of any effort to reduce domestic violence across the state, and to keep firearms out of the hands of prohibited individuals.

Developing offender intervention modules. One critical area for reducing the risk of firearms in the hands of offenders is to ensure that all individuals leaving prison, or those that are in batterers programs, are made aware that they are prohibited from possessing a firearm. Efforts are currently underway with

the Department of Corrections to create a video that explains the repercussions of possessing a firearm in violation of federal and state law. PSN districts in Utah and Iowa have developed such modules, and they appear to be successful at spreading the message to offenders that they risk being prosecuted in a federal court if caught in possession of a firearm.

Increasing public awareness about domestic violence and firearms. A media campaign in Maine is currently underway by Maine PSN to help inform the public of the firearm restrictions against domestic violence and other offenders. Such a broad public education program needs to be implemented to increase awareness of domestic violence, to let victims know there are resources available and to warn abusers that they may lose their right to possess a firearm if they continue to engage in abusive behavior. Currently, radio and print advertisements are being used in conjunction with an educational program in schools being led by the District of Maine's US Attorney's office.

Increasing coordination among local, state and federal officials. The U.S. Attorney's Office in Maine currently leads the country with the greatest number of federal domestic violence cases. This number includes prosecutions for possession of a firearm while subject to a qualifying PFA order. Part of that success is a result of increased collaboration between local, state and federal prosecution officials. More local law enforcement officials should receive training on the federal firearms laws and the connections between domestic violence abuse and firearms. In that regard, a grantee of PSN Maine is developing an online training for local law enforcement officials.

These efforts are critically important to address the challenge of keeping firearms out of the hands of abusive offenders. As PSN Maine continues its work, it will be dependent on the involvement of not only law enforcement officials, but the entire community to provide a safe environment for our neighbors in our communities and in our homes.