

Utah Domestic Violence Related Deaths 2004

An Ongoing Public Information Report of the Utah Domestic Violence Council

This report has been reviewed and approved for public distribution by the Utah Domestic Violence Council: Any printed or broadcast use of information from this report must include the following statement:

“The Utah Domestic Violence Council compiles and continually updates information on domestic violence related deaths from public sources statewide. To be listed in this report, case specific information must demonstrate a correlation between domestic violence and the death of the victim as demonstrated by corroborating public information. These troubling statistics document, in summary form, the broad scope and tragic impact of domestic violence in Utah. From public information available, each listed death shows domestic violence¹ between 1) cohabitants,² 2) persons in dating relationships and 3) family members not defined within the cohabitant statute.

Date of Death	Name, Age, Situation, Relationship	Place
March 02, 2004	<p>Jeff Ostler, Age 44, Domestic Violence Related Death</p> <p>Police officers shot and killed Jeff Ostler after a three-hour standoff. Ostler's family called police after he had reportedly shot at both his teenage son and his father with a high-powered hunting rifle.</p> <p><i>Source: Salt Lake Tribune, March 02, 2004</i></p>	Sandy, Salt Lake County, UT
April 16, 2004	<p>Michael V. Peacock, Age 52, Cohabitant Homicide</p> <p>A family friend called police to the home of Michael and Becky Peacock at 1:00 A.M. on April 16, 2004. Michael had been shot once in the torso and was dead when paramedics arrived at the home. The decedent's wife, Becky Peacock, turned herself in to police in Farmington, NM within 24 hours of the death. On October 15, 2004, Becky Peacock pleaded guilty to manslaughter, a second degree felony, for having fatally shot Michael after catching him in a hot tub with another woman. On January 14, 2005, Peacock was sentenced to one year in the Salt Lake County Jail and 48 months probation. A 1-15 year prison sentence was suspended.</p> <p><i>Sources: KSTU News, April 16, 2004 and October 16, 2004; Deseret Morning News, April 28, 2004; Salt Lake Tribune, January 18, 2005; Third Judicial District Court records</i></p>	Holladay, Salt Lake County, UT
April 17, 2004	<p>Jesus Ozuna Aguilar, Age 49, Cohabitant Homicide</p> <p>Jesus Ozuna Aguilar was found shot to death in the 2900 block of Childs Avenue in Ogden. Three persons who were roommates with Aguilar in his house and whom he was allegedly about to evict, confronted Aguilar with the intent of simply scaring him. After Aguilar pulled a knife, however, the confrontation escalated and the three ended up killing him, according to Ogden City Police. Sydni Wilcox, Corey Halvorson and Eric Ellison all pleaded guilty to manslaughter and were sentenced to prison.</p> <p><i>Sources: Deseret Morning News, April 18, 2004 and January 2, 2005.</i></p>	Ogden, Weber County, UT
May 24, 2004	<p>Marisela Lavelle, Age 39, Cohabitant Homicide</p> <p>Just after 6:00 A.M. on May 24, 2004, Federico Cervantes-Lavelle shot and killed his estranged wife, Marisela Lavelle, as she arrived at work at West High School in Salt Lake City. Cervantes-Lavelle then turned the gun on himself, committing suicide. The couple had been married 22 years. Days before the shooting Marisela had asked her husband for a divorce.</p> <p><i>Sources: KUTV News & KSL TV News, May 24, 2004</i></p>	Salt Lake City, Salt Lake County, UT
May 24, 2004	<p>Federico Cervantes-Lavelle, Age 52, Perpetrator Suicide</p> <p>See above story.</p>	Salt Lake City, Salt Lake County, UT
July 05, 2004	<p>Michelle Bailey, Age 36, Cohabitant Homicide</p> <p>A man and his former wife died as a result of a murder/suicide in the man's parents' home where his ex-wife had been staying. Stephen Simms of West Jordan, 35 years of age, went to his parents' home and shot his ex-wife, Michelle Bailey, before shooting himself, police reported. The couple had 2 minor children who were not present at the time of the shootings. Sims had obtained a protective order against Michelle in November of 2003. She had filed for divorce on November 18, 2003. In December of 2003 she filed a petition seeking a Protective Order against Simms, which was denied. The couple had stipulated to divorce conditions on June 9, 2004, at a pre-trial conference.</p> <p><i>Sources: KSL TV News & KUTV News, July 05, 2004; Deseret Morning News & Salt Lake Tribune, July 6, 2004; Third Judicial District Court records</i></p>	West Jordan, Salt Lake County, UT
July 05, 2004	<p>Stephen Sims, Age 35, Perpetrator Suicide</p> <p>See above story.</p>	West Jordan, Salt Lake County, UT
July 19, 2004	<p>Lori Soares Hacking, Age 27, Cohabitant Homicide</p> <p>On July 19, 2004, Lori Soares Hacking was reported to police as missing by her husband Mark Hacking, age 28. Hacking participated in the search for his wife. Hacking was subsequently arrested and charged with one count of first-degree felony murder and three counts of obstructing justice, a second degree felony. Prosecutors allege that Hacking shot Lori in the head with a .22 caliber rifle while she slept and then discarded her body and the rifle in different dumpsters in the Salt</p>	Salt Lake City, Salt Lake County, UT

	<p>Lake City area. Many weeks later Lori's badly decomposed body was found in the landfill. Hacking had lied to Lori and their families about graduating from college at the University of Utah, being accepted to medical school and other personal accomplishments. In the spring of 2005, Hacking pleaded guilty to First Degree Felony Murder. He was sentenced to the statutorily prescribed term of five year to life in the Utah State Prison. The Utah Board of Pardons will determine the exact time he serves in prison. Based on that board's treatment of other murderers, Hacking is likely to spend at least 25-30 years behind bars.</p> <p><i>Source: Deseret Morning News; Salt Lake Tribune; KSL.com; KUTV News; and FOX News – numerous dates</i></p>	
August 10, 2004	<p>Rhonda A. Rosenbalm, Age 34, Dating Relationship Homicide</p> <p>Ricky James Cunningham, age 26, was charged by the Grand County Attorney's Office with first degree felony murder for the death of his girlfriend, Rhonda A. Rosenbalm. Cunningham is accused of hitting and killing Rhonda with her car in Arches National Park following an argument. After physically assaulting Rhonda, he struck her at high speed with her car as she was running for help. After striking the victim, the vehicle slammed into the back of a flatbed truck occupied by a Mr. and Mrs. Smith and their child. The Smiths had been trying to help Rhonda. Cunningham was also charged with three counts of Attempted Murder in relation to the Smiths.</p> <p><i>Sources: Salt Lake Tribune, August 18, 2004; Grand County Attorney's Office</i></p>	Arches National Park, Grand County, UT
August 12, 2004	<p>John Hansen, Age, 49 Perpetrator Suicide</p> <p>John Hansen shot his wife, Donna Hansen, age 46, four times then turned his gun on himself. According to Donna's two daughters, ages 12 and 14, who were at home at the time of the shooting, the couple had been arguing throughout the night and the conflict turned violent in the morning. Donna survived. Hansen was found dead in his truck about a mile out of town, apparently from a self inflicted gunshot wound to the head.</p> <p><i>Sources: Deseret News, August 13, 2004; KSL.com, August 13, 2004</i></p>	East Carbon, Carbon County, UT
August 19, 2004	<p>Marydell Lupinacci, Age 49, Cohabitant Homicide</p> <p>Police reported that Frank Lupinacci waited for his estranged wife, Marydell, to leave her apartment for work, confronted her, exchanged words with her and then shot her in the head with a handgun. He then turned the gun on himself and later died. Frank, a convicted felon, was legally prohibited from possessing a gun. Both Marydell and Lupinacci had petitioned for protective orders against each other. On August 12, 2004, Marydell was granted a protective order against Lupinacci. His protective order petition was dismissed on July 19, 2004.</p> <p><i>Sources: Deseret Morning News, August 20, 2004; Salt Lake Tribune, August 20, 2004; Third Judicial District Court records</i></p>	Sandy, Salt Lake County, UT
August 21, 2004	<p>Frank Lupinacci, Age 46, Perpetrator Suicide</p> <p>See above story.</p>	Sandy, Salt Lake County, UT
August 27, 2004	<p>Alan Lavoy Johnson, Age 71, Cohabitant Homicide</p> <p>Evelyn Johnson, 68 years of age, was charged by the Uintah County Attorney's Office with murder after she allegedly shot her husband, Alan, four times with a .22 caliber handgun. The incident occurred in his camper-trailer after she went there to talk to him about his returning home. He had filed for divorce, serving her with papers on August 26, 2004. It would have been the second time the couple had divorced. Approximately a week before the shooting, Mrs. Johnson had filed a petition for a protective order against Alan, claiming he was verbally abusive and controlling. Evelyn Johnson's daughter said the shooting was the result of "20 years of severe mental and physical abuse," though police found no documented history of domestic violence. In September a mental competency evaluation was ordered on Mrs. Johnson by the Seventh Judicial District Court. Further court action is pending. Following initial mental evaluations, Mrs. Johnson was found to be incompetent to stand trial and was referred for treatment. After many months of treatment, the court determined her competence to have been restored. In April of 2007, following a number of mental evaluations done by several different mental health experts, Mrs. Johnson was scheduled to enter a guilty plea. On the date of the</p>	Jensen, Uintah Co., UT

	<p>hearing, however, counsel for both the defense and the state told the court that Mr. Johnson's competence to enter a plea was questionable. The court ordered her sent back to the Utah State Hospital for further treatment and evaluation.</p> <p><i>Sources: The Salt Lake Tribune, September 1, 2004; Deseret Morning News, September 1, 2004 & January 2, 2005; Records of the Seventh Judicial District Court.</i></p>	
September 3, 2004	<p>Sean Scott, Age 36, Cohabitant Homicide</p> <p>Sean Scott died from a single .22 caliber gunshot wound to the chest. Darrell Patrick, age 46, the victim's stepfather, told police he shot his stepson because he was afraid of him. Earlier that evening Sean had argued over the phone with his mother about some wall hangings and who should own them, after which he went to his mother's mobile home. According to police, everyone involved had been drinking alcohol. Patrick was arrested and booked into jail for homicide. Murder charges were filed against Patrick by the Weber County Attorney's Office. Trial is scheduled to begin in the Second Judicial District Court on March 1, 2005.</p> <p><i>Sources: Salt Lake Tribune September 5, 2004; Deseret Morning News, January 2, 2005; Second Judicial District Court records</i></p>	Roy, Weber County, UT
September 11, 2004	<p>John Colby Johnston, Age 16, Family Violence Related Homicide</p> <p>16-year-old John Colby Johnston died in his home as a result of three gunshot wounds, Roy police said. The alleged shooter was John's 13 year-old-brother. The boys were home alone at the time of the shooting. Police reported they had been called once before to the home within the past eight months to respond to a fight between the two boys. The 13 year-old-boy, who walked to a nearby convenience store to dial 911, reported the shooting. Officials said that bullying of the 13 year old by the decedent might have been a factor in the case. The 13 year-old-boy was arrested and booked into the Weber Valley Detention Center on suspicion of homicide. The Weber County Attorney's Office has filed one count of Theft of a Firearm and one count of Murder against the 13 year old boy in the Second District Juvenile Court. As of the end of 2004, further judicial proceedings were pending.</p> <p><i>Sources: Standard Examiner, September 15, 2004 & November 11, 2004; Weber County Attorney's Office</i></p>	Roy, Weber County, UT
September 29, 2004	<p>Beata Jencks, Age 81, Cohabitant Homicide</p> <p>Just after 6 , 84-year-old Kimball Jencks entered a third-floor room at Cottonwood Hospital where his wife, Beata, age 81, was a patient, and fatally shot her once in the head with a small-caliber handgun. He then took his own life with a single shot. By almost all accounts, Kimball and Beata Jencks were very close. The couple married shortly after World War II, possibly in their homeland of Germany, according to police. They eventually made their way to America to begin a new life and lived the final 20 years quietly in the same house in Murray. Investigators said the murder-suicide was an apparent mercy killing. A note written by Beata was found that explained the pact she and her husband had made. Murray police detective Rob Hall said the Jenckses believed their health was "diminishing rather quickly" and "their limited physical ability to take care of one another" apparently played a role in their decision.</p> <p><i>Source: Deseret Morning News, September 29 & 30, 2004.</i></p>	Murray, Salt Lake County, UT
September 29, 2004	<p>Kimball Jencks, Age 84, Perpetrator Suicide</p> <p>See above story.</p>	Murray, Salt Lake County, UT
October 6, 2004	<p>Jean K. Smaw, Age 80, Cohabitant Homicide</p> <p>Police officers responding to a 911 call from a Salina man claiming to have shot his wife, arrived in time to watch the man turn the gun on himself. Jean K. Smaw was shot and killed by her husband, William P. Smaw, after which he took his own life. The murder-suicide took place in the back yard of the Smaws' Salina home shortly after noon. Salina Police said the couple, who had lived in the home for several years, left no note and had no known history of domestic violence. Neighbors said the couple kept to themselves, always had their blinds shut and seldom talked to anyone. Some neighbors were even surprised to learn than Smaw</p>	Salina, Sevier County, UT

	<p>had a wife. Salina residents speculated that Jean Shaw had just learned she had a terminal illness and that her husband did not want her to suffer.</p> <p><i>Source: The Salt Lake Tribune, October 7, 2004; KSL TV, October 7, 2004</i></p>	
October 6, 2004	<p>William P. Smaw, Age 85, Perpetrator Suicide</p> <p>See above story</p>	Salina, Sevier County, UT
October 9, 2004	<p>James Richard Gully, Age 61, Cohabitant Homicide</p> <p>Benjamin Gully, 19, was accused of shooting his father, Jim, in the head at close range with a shotgun while the two were duck hunting. The shooting occurred at around 7 , October 9, 2004, in a remote area between Farmington Bay and the Great Salt Lake. After hearing shots fired and hearing Ben Gully screaming for help, a group of hunters ran toward the scene. According to a witness, when asked if the shooting was an accident the young man reportedly said, "No, he just wouldn't shut up and I shot him." Gully was arrested and booked into the Davis County Jail on suspicion of criminal homicide. Gully's step-mother later released a statement to the media that Benjamin had suffered from an unspecified "severe mental illness" for nearly a year. "We had always feared that he might harm himself, but never ever thought he would be capable of harming others," the statement read. It continued, "All of us know that it was not Ben who harmed his father, but the illness itself." The Davis County Attorney's Office charged Gully with Murder, a first degree felony. As of the end of 2004, further judicial proceedings were pending in the Second Judicial District Court. In February of 2005, after having been found by the court to be competent to stand trial, Gully entered a plea of Not Guilty by Reason of Insanity to the charges pending against him. On December 11, 2006, following a non-jury trial in the Second Judicial District Court, Benjamin Gully was found Not Guilty by Reason of Insanity. The court determined that he was incapable of forming the intent required by Utah's murder statute. Following the verdict, the court ordered Gully returned to the Utah State Hospital, finding that he is still a danger to himself and others. The hospital will submit semi-annual status reports to the court on Gully's condition. If at some point medical experts believe that he is no longer dangerous, the court will hold a hearing to determine whether he should be released.</p> <p><i>Sources: The Salt Lake Tribune, October 10,12 & 13, 2004, March 1, 2005 & December 11, 2006; The Deseret Morning News, October 12, 2004 & January 2, 2005; The Standard Examiner, October 12, 2004; KUTV.com, December 11, 2006.</i></p>	Davis County, UT
October 22, 2004	<p>Juan Carlos Vasquez, Age 21, Cohabitant Homicide</p> <p>Juan Carlos Vasquez was allegedly fatally shot by his roommate and cousin, Floriberto Ocampo. The victim was shot several times in the chest with a handgun. According to a witness, Juan Carlos and Ocampo had been arguing prior to being dropped off at their common residence on October 22nd. Following the shooting, Ocampo fled to California. Charges of first-degree felony murder and second degree felony obstructing justice were filed against Ocampo by the Salt Lake District Attorney's Office. On November 10, 2004, Ocampo was arrested in Santa Ana, California by the U.S. Marshals Service. On January 19, 2006, Ocampo plead guilty to Manslaughter, a second degree felony and was sentenced to the Utah State Prison for a term of not less than one nor more than 15 years.</p> <p><i>Sources: Salt Lake Tribune, November 11 & 17, 2004 & January 20, 2006; Deseret Morning News, November 14, 2004 & January 2, 2005</i></p>	Salt Lake City, Salt Lake County, UT

<p>November 26, 2004</p>	<p>Kari Lynn San Miguel, Age 20, Cohabitant Homicide</p> <p>Kari Lynn San Miguel was killed in an early morning shooting, following which her boyfriend, Jose Luis Topete, was arrested for investigation of manslaughter, possession of a firearm by a restricted person and possession of a stolen firearm, all second-degree felonies. The parties' two young children were sleeping in the residence at the time of the shooting. At about 1:00 A.M., West Jordan Police responded to a domestic violence call at the victim's residence. Upon arrival they found the victim, who had been shot once in the upper torso. Witnesses had heard arguing at the residence before the shooting. Although police originally stated that the shooting was probably non-intentional based upon the fact that the fatal bullet went through Topete's left hand before entering Kari's torso, they later discounted Topete's claim that the gun discharged accidentally while tucked in his pants. Police said the "double-action" .357 revolver would have had to have been cocked in Topete's pants for it to go off accidentally. "If not cocked, it requires a 'heavy trigger pull' in order to discharge," court documents state. Following a review of the case, the Salt Lake District Attorney's Office, on December 2nd, filed charges against Topete of second degree felony manslaughter, felony possession or use of a firearm by a restricted person, theft by receiving stolen property and obstructing justice. As of the end of 2004, further judicial proceedings were pending in the Third Judicial District Court.</p> <p><i>Sources: Salt Lake Tribune, November 27 & December 3, 2004; Deseret Morning News, November 27 & December 5, 2004 & January 2, 2005</i></p>	<p>West Jordan, Salt Lake County, UT</p>
<p>December 25, 2004</p>	<p>Kevin Leslie Jones, Age 53, Domestic Violence Related Death</p> <p>During an investigation by Salt Lake City police officers of a domestic violence assault, Jones was shot and killed by police. Police initially responded to Jones' apartment on the 200 block of east South Temple at about 2:30 Christmas Day following a 911 call reporting a domestic violence-related incident. Jones and his girlfriend had reportedly been watching television with another man when Jones and the woman began to argue. When the verbal dispute escalated to a physical assault, the couple's male friend intervened and forced Jones to leave the residence. Jones later returned while police were still at the scene completing a domestic violence report. He was carrying a large butcher knife. When confronted by an officer and ordered to drop the knife, Jones refused to comply. Instead, he began yelling at police. After repeated refusals to comply with police demands to drop the knife, Jones moved closer to an officer who then shot him several times.</p> <p><i>Sources: KUTV News, December 25, 2004; Deseret Morning News, December 26, 2004.</i></p>	<p>Salt Lake City, Salt Lake County, UT</p>
<p style="text-align: right;">COHABITANT HOMICIDES: 13 PERPETRATOR SUICIDES: 6 DATING RELATIONSHIP HOMICIDES: 1 DATING VIOLENCE RELATED SUICIDE: 0 FAMILY VIOLENCE RELATED HOMICIDES: 1 DOMESTIC VIOLENCE RELATED SUICIDE: 0 DOMESTIC VIOLENCE RELATED DEATH: 2</p> <p style="text-align: center;">TOTAL DOMESTIC VIOLENCE RELATED DEATHS IN UTAH DURING 2006: 23</p> <p style="text-align: center;">NUMBER OF DV RELATED DEATHS CAUSED BY THE USE OF A FIREARM: 22</p>		

I. Under Utah Chapter 77, Title 36, Section 2.1 Domestic Violence Means

Any criminal offense involving

-violence

-physical harm

-**threat** of violence or physical harm

Any attempt, conspiracy, or solicitation to commit a criminal offense involving

-violence or physical harm

When committed by one **cohabitant** against another

Under Utah Chapter 77, Title 36, Section 1 Domestic Violence also means commission or attempt to commit any of the following offenses by one cohabitant against

Final: January 18, 2005

another

aggravated assault
assault
criminal homicide
harassment
telephone harassment
kidnapping, child kidnapping or aggravated kidnapping
mayhem (mutilation of a body part)
sexual offenses
-unlawful sexual intercourse
-rape
object rape
sodomy-forcible sodomy
forcible sexual abuse
aggravated sexual assault
sexual exploitation of a minor
stalking
unlawful detention
violation of a protective order
offenses against property (theft is not a domestic violence offense)
possession of a deadly weapon with intent to assault
discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building or vehicle
disorderly conduct if conviction result of plea negotiation from an original DV offense
child witnessing DV child abuse
any other criminal offense involving violence or physical harm

2. Under Utah Title 30, Chapter 6, Section 1: the Cohabitant Abuse Act, a cohabitant is defined as:

- (2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:
 - (a) is or was a spouse of the other party;
 - (b) is or was living as if a spouse of the other party;
 - (c) is related by blood or marriage to the other party;
 - (d) has one or more children in common with the other party;
 - (e) is the biological parent of the other party's unborn child; or
 - (f) resides or has resided in the same residence as the other party.
- (3) Notwithstanding Subsection (2), "cohabitant" does not include:
 - (a) The relationship of natural parent, adoptive parent, or step-parent to a minor; or
 - (b) The relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.