

## LAW ENFORCEMENT RESPONSE TO OFFICER-PERPETRATED DOMESTIC VIOLENCE

*In September 1999, Veda Harris fled with her children to her sister's home after her ex-boyfriend, Tony Bailey, a federal drug enforcement officer, attacked her 14-year old son and hit her when she tried to protect him. Three weeks later, Tony burst into the home and shot Veda in the head, killing her instantly. Veda's sister was shot in the stomach while trying to wrestle the gun away from Tony, but survived her injuries. Tony fled the scene and was found three days later in Louisiana where he shot himself after being discovered by authorities.*

*In 1990, a former girlfriend filed a report with police alleging that Tony choked her and slammed her to the ground when she tried to end their relationship. No criminal charges were filed against Tony. In 1995, Tony was questioned in connection with the suspicious death of another girlfriend who was 9 months pregnant with Tony's child. The investigation stalled when the state of the woman's decomposed body prevented the coroner from being able to determine the cause of her death. In 1997, another former girlfriend obtained a restraining order against Tony after he hit her in the face and threatened her. That same year, Tony faced charges of felony child abuse after violently shaking his young daughter, causing her to suffer severe brain damage. Although Tony was eventually acquitted of the charges, he was placed on paid administrative leave as a result of the incident. Tony was still on administrative leave at the time he killed Veda.<sup>1</sup>*

A major barrier to ensuring effective law enforcement response to domestic violence is the prevalence of domestic violence among law enforcement officers themselves. While no uniform data is collected regarding the incidence of abuse in police families, one study found that rates of abuse in police families may be anywhere from 2 to 4 times higher than in American families in general.<sup>2</sup> Regardless of the actual numbers, the fact that law enforcement officers are

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perpetrating domestic violence against their intimate partners and family members presents some very serious societal dangers.

The most immediate danger posed by officer-perpetrated domestic violence is to the victim of abuse herself. Victims of officer-perpetrated domestic violence are essentially shut out of the normal channels of seeking protection from abuse. Unlike other domestic violence situations, the victim's abuser is part of the very system that she must turn to for help. Moreover, the victim's abuser is constantly armed,<sup>3</sup> has a high level of public authority, has the backing of law enforcement and criminal justice system personnel, and is specially trained to intimidate and track the victim down no matter where she runs.<sup>4</sup> An officer-abuser is also familiar with the legal system's response to domestic violence and, therefore, knows how to manipulate the system to avoid being held criminally accountable for domestic violence.<sup>5</sup>

Calling the police is often not a safe option for a victim of officer-perpetrated domestic violence due to the potential for abuse or retaliation by the abuser or his fellow officers. Reporting the violence to a department supervisor carries a similar threat of retaliation, with little promise of actual consequences for the abuser or protection for the victim. If the victim obtains a restraining order, she must look to her abuser or his colleagues to enforce the order.<sup>6</sup> If she tries to flee to a shelter, the abuser is well aware of, and has access to, the locations of confidential domestic violence shelters.

Seeking assistance for domestic violence can be an even greater challenge when the victim is also a member of law enforcement. An officer-victim may be perceived by some of her peers as being a "troublemaker" who has betrayed their professional code of loyalty if she files a report against her abuser for domestic violence.<sup>7</sup> In addition, reporting the domestic violence to unsympathetic or even hostile supervisory personnel may jeopardize the victim's professional career and result in disciplinary action against her, rather than

her abuser.<sup>8</sup> Given all of these factors, victims of officer-perpetrated domestic violence are among the most vulnerable domestic violence victims.<sup>9</sup>

Officer-perpetrated domestic violence also threatens the safety of the community at large. An officer who is abusive is more likely to be overly sympathetic to an abuser and, consequently, less likely to demonstrate objectivity and concern for the victim's safety when responding to a domestic violence situation. As such, the officer may minimize the victim's allegations and refuse to take the necessary steps to ensure the victim's safety, such as arresting the abuser, issuing an emergency protective order, enforcing an existing restraining order, or referring the victim to appropriate services or shelter. This dereliction of duty increases the risk to the victim, her family, and community members of being injured or killed by the abuser once the officer leaves the scene of the incident.

Law enforcement leaders have a responsibility to victims, law enforcement personnel, and the public to develop and strictly enforce policies that hold law enforcement accountable for violence inflicted on intimate partners and family members. The integrity of their agencies depends on prompt and effective response to officer abuse. The failure to meet this responsibility can expose the department to civil liability should serious injury or death occur as a result of known or suspected domestic violence committed by an officer.<sup>10</sup> Moreover, ignoring officer-perpetrated domestic violence and exempting its own officers from the very laws that they are mandated to enforce causes the agency to lose credibility and forfeit the trust of the community that it serves. For domestic violence to be treated as a serious crime, no one can be immune from criminal domestic violence laws.

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Law enforcement agencies that exempt their own officers from the very laws that they are mandated to enforce jeopardize the public's safety and forfeit the trust of the communities they serve.

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## HOW FAR HAVE WE COME?

### **Identifying and Defining the Problem**

For many years, domestic violence in law enforcement families was a problem that received little attention by the criminal justice system and the community. It was not until the early 1990s that social scientists, victim advocates and law enforcement professionals began to seriously examine the relationship between law enforcement officers, the law enforcement culture, and family violence within law enforcement families. Several studies, in particular, have been instrumental in sparking interest in this issue.

The first study was conducted in 1991 by Dr. Leonor Boulin Johnson of Arizona State University. The Johnson study surveyed 728 officers and 479 spouses in three East Coast police departments regarding work-related stress and its impact on the officers' family life. Forty (40) percent of the officers surveyed reported that they had been verbally or physically abusive toward their spouses or children within the six months prior to the survey.<sup>11</sup> Ten (10) percent of the spouses surveyed reported physical violence by their officer-spouses during this period, and 20 to 30 percent reported that their partners "frequently became verbally abusive toward them or their children."<sup>12</sup>

While some questioned the methodology of the Johnson study,<sup>13</sup> another study released a year later in 1992 produced similar results. In this study, researchers Neidig, Russell and Seng surveyed 385 male police officers, 40 female officers and 115 female spouses of officers. Approximately 40 percent of the officers surveyed reported experiencing at least one incident of physical aggression during a marital conflict within the prior year, and 28 percent admitted that they were physically violent toward their intimate partners during this period.<sup>14</sup> Eight (8) percent of male officers reported severe physical violence, including strangling, beating, or using a weapon against their intimate partners.<sup>15</sup>

Two years later, in 1994, the Southwestern Law Enforcement Institute<sup>16</sup> conducted a nationwide survey of 123 police agencies serving populations of 100,000 or more. The survey examined police officials' perceptions of the scope of domestic assault problems in their departments, departmental policy responses to such assaults, and disciplinary actions taken. Survey responses revealed that 28 percent of the departments experienced an increase in officer-involved domestic violence within the prior two years, and that 45 percent of the departments had no specific policy in place for dealing with officer-involved domestic violence.<sup>17</sup> For officers facing their first sustained complaint of domestic violence, 52 percent of departments preferred counseling to other methods of discipline.<sup>18</sup> Forty-eight (48) percent of departments preferred to discipline officers facing a second sustained complaint by suspending them without pay.<sup>19</sup>

While these studies accounted for only a small sample of officers and agencies, the startling findings alerted law enforcement departments across the country to the need to address domestic violence within their own ranks. These findings also caused social scientists and advocates to examine whether there was something inherent in the "police culture" and "police personality" that contributed to the prevalence of domestic violence within law enforcement families.

In 1998, the Federal Bureau of Investigation ("FBI") convened a group of law enforcement officers, attorneys, psychologists, victim advocates, and chaplains for a conference at the FBI Academy in Quantico, Virginia, to share their views and research on officer-perpetrated domestic violence.<sup>20</sup> Conference participants submitted commentary and research on a variety of issues relating to domestic violence in police families that were compiled and published by the FBI.<sup>21</sup>

Some conference participants attributed the potential for domestic violence by officers to the ingrained "culture" of law enforcement that promotes authoritarianism, entitlement, emotional detachment, and the use of force to

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resolve conflicts.<sup>22, 23</sup> Other participants cited the impact of the law enforcement profession itself, and the significant stress and conflict that it causes for officers and their families, as a contributing factor for officer-perpetrated domestic violence.<sup>24</sup>

With regard to victim safety, participants identified multiple barriers that victims face in seeking protection from officer-perpetrated abuse. These included the inability to obtain confidential access to emergency shelters, heightened dangers to victims’ physical safety due to their partners’ possession of weapons and specialized training in the use of force, and the victims’ inability or reluctance to rely on officers and criminal justice personnel who may be hostile to their efforts to accuse a fellow officer of domestic violence.<sup>25</sup> In fact, participants acknowledged that a primary barrier to achieving safety for victims is the persisting “Code of Silence” among members of law enforcement, under which fellow officers refuse to report or otherwise provide information concerning other officers’ misconduct out of loyalty to their peers.<sup>26</sup>

While the participants in the FBI conference had diverse backgrounds and held divergent beliefs about the actual prevalence of, and contributing factors for, officer-perpetrated domestic violence, participants were generally in agreement about what steps should be taken to improve the response of law enforcement to this problem. Recommendations from participants on this topic included:

- Developing and strictly enforcing written protocols for addressing officer-perpetrated domestic violence;
- Conducting training for law enforcement on identifying, preventing and intervening in cases of officer-perpetrated domestic violence;
- Shifting departmental priorities from authoritarianism and the use of force to building communication and non-violent conflict resolution skills among officers;

- Establishing a “zero tolerance” policy within departments for domestic violence by officers;
- Using pre-employment screening tools to identify employees with abusive or violent tendencies;
- Placing a greater emphasis on and encouraging a commitment to protecting the safety of victims of officer-perpetrated domestic violence;
- Establishing early intervention policies and services for officers who may be at risk of perpetrating domestic violence or abuse;
- Increasing collaboration between law enforcement and victims advocacy groups; and
- Conducting further research on the prevalence and risk factors for officer-perpetrated domestic violence.<sup>27</sup>

The FBI conference was a valuable effort that brought together professionals and research from across the nation to examine the various problems associated with preventing and holding officers accountable for domestic violence, as well as ensuring the safety of victims of such violence. However, the burden remained with individual law enforcement departments to use this expertise to examine and improve their own policies for addressing officer-perpetrated domestic violence.

### **Legal and Policy Changes**

As societal recognition of officer-perpetrated domestic violence grew, so did the demand for more accountability for such violence and responsibility for the safety of victims. One of the most significant legal advancements in this area occurred in 1996, when Congress passed the Lautenberg Amendment to the Gun Control Act of 1968. Codified in 18 U.S.C. § 922, the Lautenberg Amendment prohibits anyone who is convicted of a misdemeanor crime of

## IMPACT OF GUN RESTRICTIONS ON POLICE PERPETRATORS OF DOMESTIC VIOLENCE

IF SUBJECT TO A RESTRAINING ORDER:

## CALIFORNIA LAW:

- Prohibits persons subject to civil domestic violence restraining orders from owning, possessing, purchasing, receiving or attempting to purchase or receive a firearm while the restraining order is in effect.<sup>i</sup>
- However, provides for a “public interest” exception whereby peace officers who use firearms in connection with their official duties can petition the Court to continue to carry a firearm, either on duty or off duty.<sup>ii</sup>

## FEDERAL LAW:

- Prohibits a person who is subject to a protective order from possessing or receiving a firearm.<sup>iii</sup>
- However, provides for an “official use exception” for police officers, military personnel, and other government employees who use firearms in connection with their official duties.<sup>iv</sup>

IF CONVICTED OF MISDEMEANOR DOMESTIC VIOLENCE:

## CALIFORNIA LAW:

- Prohibits a person convicted of misdemeanor domestic violence from owning, purchasing, receiving or possessing a firearm for a period of 10 years.<sup>v</sup>
- However, provides for a one-time “public interest” exception whereby peace officers can petition the Court for relief from this prohibition.<sup>vi</sup>

## FEDERAL LAW:

- Prohibits a person convicted of misdemeanor domestic violence from possessing or receiving a firearm.<sup>vii</sup>
- There is no “official use exception” for police officers, military personnel, and other government employees convicted of misdemeanor domestic violence.<sup>viii, ix</sup>
- Federal law also makes it unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person has been convicted in any court of misdemeanor domestic violence.<sup>x, xi</sup>

IF CONVICTED OF FELONY DOMESTIC VIOLENCE:

## CALIFORNIA LAW:

- Prohibits a person convicted of felony domestic violence from owning, purchasing, receiving or possessing a firearm.<sup>xii</sup>
- However, allows convicted felons who have never been convicted of a felony involving the use of a deadly weapon to seek a pardon from the Governor to restore their civil rights, including the right to own, possess or keep a firearm.<sup>xiii</sup>

## FEDERAL LAW:

- Prohibits a person convicted of felony domestic violence from possessing or receiving a firearm.<sup>xiv</sup>
- However, provides for an “official use exception” for police officers, military personnel, and other government employees who use firearms in connection with their official duties.<sup>xv</sup> Thus, peace officers who are convicted of misdemeanor domestic violence are subject to a permanent federal firearm ban, while peace officers who are convicted of a domestic violence felony are not.<sup>xvi</sup>

domestic violence from owning or possessing a firearm. Despite intense lobbying from law enforcement agencies and associations, no exception was created for government employees who use guns in carrying out their official duties.

Subsequent to its passage, the Lautenberg Amendment withstood constitutional challenges initiated by law enforcement associations and private individuals alleging that its application would unfairly deprive law enforcement officers of their livelihoods.<sup>28</sup> Thus, the Lautenberg Amendment continues to apply to all local, state, federal and military law enforcement officers and to all misdemeanor domestic violence convictions, including convictions prior to the enactment of the amendment.

While the Lautenberg Amendment constituted a major step toward achieving accountability for officers who perpetrate domestic violence, as well as safety for their victims, it also had unintended consequences. Because a domestic violence conviction could end an officer's career by taking away his right to possess a firearm, law enforcement departments had an even greater incentive than before to hide or trivialize allegations of officer-perpetrated domestic violence.

In fact, research on the implementation of the Lautenberg Amendment reveals that very few law enforcement officers have actually been affected by federal gun restrictions. For instance, a 1999 survey of 217 law enforcement agencies in Kentucky found that only 4 percent of the state's law enforcement departments reported having officers within their ranks with misdemeanor convictions for domestic violence.<sup>29</sup> Only 12 officers statewide were identified as having domestic violence convictions that triggered the federal gun prohibition.<sup>30</sup> Of these 12 officers, 2 were terminated and 7 had their convictions expunged.<sup>31</sup> Similarly, a survey of the 100 largest police departments in the U.S. found that as of 1999, only 11 officers from these departments had been affected by the federal gun ban.<sup>32</sup>

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Law enforcement officers are subject to federal laws that prohibit anyone who is convicted of a misdemeanor crime of domestic violence from owning or possessing a firearm.

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The fact that the Lautenberg Amendment affected only a handful of law enforcement officers across the nation did not mean that domestic violence simply disappeared within the law enforcement community.<sup>33</sup> To the contrary, advocates viewed these low numbers as evidence that departments were enabling officers to evade federal gun restrictions by allowing them to plead to crimes other than domestic violence, or by expunging their domestic violence convictions.<sup>34</sup> Indeed, these findings demonstrated that creating a “zero tolerance” culture within law enforcement departments for domestic violence by officers was just as critical as creating more legal accountability for officer-perpetrated domestic violence.

Consequently, following the passage of the Lautenberg Amendment, the International Association of Chiefs of Police (“IACP”) released a model policy for addressing domestic violence by law enforcement officers.<sup>35</sup> The model policy was a collaborative effort between law enforcement, victim advocates and domestic violence victims from across the country.<sup>36</sup> The IACP put forth its model policy with the recommendation that law enforcement leaders adopt some version of the policy in the interest of ensuring the safety of victims of officer-perpetrated domestic violence, maintaining the integrity of their departments, and avoiding potential liability should serious injury or death occur.

The model policy emphasizes the prevention of officer-perpetrated domestic violence through hiring and training practices and immediate intervention by supervisors when signs of domestic violence become evident. In addition, the model policy requires departments to institutionalize structured responses to officer-perpetrated domestic violence that protect the victim’s safety and hold abusive officers strictly accountable for their conduct.<sup>37</sup>

A recent study revealed that only 29 percent (23 of 78) of law enforcement agencies surveyed indicated that they had specific policies in place for addressing officer-involved domestic violence.<sup>38</sup> The study analyzed policies submitted by 22 agencies and found that only 2 agencies had detailed, comprehensive

policies for addressing officer-involved domestic violence that were comparable to the IACP's model policy.<sup>39</sup> In fact, policies varied widely among agencies and many failed to address critical issues such as screening officer candidates for domestic violence, monitoring and reporting abusive conduct by officers, investigating domestic violence complaints against officers, weapons seizure and responding to officers who are victims of domestic violence.<sup>40</sup>

### California's Response

During the time that the IACP was developing its model policy, a series of events brought national attention to the problem of officer-perpetrated domestic violence in California. In 1997, a consultant named Bob Mullally released confidential Los Angeles Police Department ("LAPD") records to the media documenting countless acts of violence by 79 LAPD officers against their intimate partners and family members.<sup>41</sup> None of the officers had been arrested. Instead, the records showed that every case was handled internally by the LAPD, with the majority of officers receiving only a reprimand or brief suspension for their conduct.

In light of this information, the Los Angeles Police Commission's Domestic Violence Task Force and the Office of the Inspector General ("OIG") launched an investigation of the LAPD's internal affairs investigations of officer-involved domestic violence completed between 1990 and 1997, a total of 227 cases.<sup>42</sup> The results of the investigation revealed a consistent failure on the part of the LAPD to effectively address the problem of domestic violence by its officers. Of the 227 cases reviewed, only 40 percent of the investigated complaints of domestic violence were sustained.<sup>43</sup> Sixty (60) percent of the complaints were dismissed due to a finding that the abuse did not occur, that there was insufficient evidence of abuse, or that the conduct of the officer was justified and lawful.<sup>44</sup>

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A 1997 investigation revealed flagrant failures on the part of the Los Angeles Police Department to effectively address the problem of domestic violence perpetrated by its own officers.

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Of the complaints that were sustained, 61 percent resulted in suspensions, with the vast majority falling between one and fourteen days.<sup>45</sup> Twenty-two (22) percent of the perpetrators received only a reprimand or admonishment from their supervisor,<sup>46</sup> and only 9 percent were actually terminated from their employment.<sup>47, 48</sup> Only 4 officers were actually convicted of domestic violence offenses.<sup>49</sup> Appallingly, of these 4 officers, one had his conviction expunged, and two received only minimal suspensions from the department for their misconduct.<sup>50</sup>

Despite the inconsequential punishment of these officers, many of the acts of abuse that their victims complained about were severe and life-threatening. The conduct included choking, punching, sexual assault, threats with a weapon, pushing the victim down a flight of stairs, and slamming the victim's head into a car windshield. In fact, one officer was given a two-day suspension, later reduced to an admonishment, after hitting his wife so hard that he split her lip.<sup>51</sup>

Even more astounding, the investigation revealed that sustained allegations of domestic violence did not affect an officer's performance evaluations or promotability. In one case, the abuser-officer grabbed his victim by the hair, threw her down on the floor, and repeatedly punched her in the stomach. His performance evaluation made no mention of the incident and concluded that the "[officer] has consistently displayed a calm and professional demeanor even when dealing with the most highly agitated and stressful situations."<sup>52</sup>

Indeed, almost a third of officers with sustained domestic violence complaints were eventually promoted.<sup>53</sup> None of the officers were barred from obtaining desired positions or transferring to other assignments that were inconsistent with the allegation of domestic violence. One officer was even transferred to the Police Academy to serve as a special instructor shortly after being suspended for domestic violence involving a firearm.<sup>54</sup>

As a result of the investigation, the OIG made numerous recommendations for improving LAPD officers' responses to domestic violence, including:

- Create a specialized unit within the Internal Affairs Division to investigate complaints of domestic violence by officers;
- Mandate that officers accused of domestic violence be subject to the same treatment as civilians, including arresting the officer when required under state law;
- Institute a "no-drop" policy for departmental investigations similar to that of the City Attorney regarding domestic violence prosecution;
- Develop a checklist for investigating complaints of domestic violence by officers;
- Provide training to internal affairs personnel and command staff on the definition and dynamics of domestic violence;
- Mandate that the same criteria for referring a domestic violence complaint for criminal prosecution that are used in cases involving civilians be used in cases involving officers;
- Ensure that departmental discipline is commensurate with the severity of the offense;
- Create a data base to track allegations of misconduct by officers; and
- Train supervisors to identify signs of officer domestic violence and intervene.<sup>55</sup>

One month after the OIG report was released, a special unit was created within the LAPD's internal affairs department to investigate complaints of domestic violence by officers. The creation of the specialized unit resulted in a surge of investigations and arrests of officers for domestic violence.<sup>56</sup>

In addition, the OIG continues to monitor how the LAPD handles complaints of officer-perpetrated domestic violence. Most recently, the OIG reviewed

the department's investigation and actions in 19 cases of alleged domestic violence by officers, completed between July and September 2003.<sup>57</sup> The OIG identified problems with respect to 4 of the 19 cases that it reviewed.<sup>58</sup> In one of the problematic cases, an officer was charged with three counts of domestic violence and one count of providing misleading statements to a supervisor during an official investigation.<sup>59</sup> The officer was determined to be guilty of all charges and the LAPD's Board of Rights ("BOR") recommended that the officer be terminated.<sup>60</sup> The decision was later reviewed by the Chief of Police, who reduced the penalty to a five-day suspension.<sup>61</sup> The OIG questioned the appropriateness of this action given that the complaint file failed to contain any justification or explanation for the decision.<sup>62</sup>

Two years after the LAPD scandal, a highly publicized homicide shifted attention to problems of officer-perpetrated domestic violence among Northern California law enforcement departments. On November 8, 1999, Phillip Garcia, an officer for the Newark Police Department in Santa Clara County, ran his ex-girlfriend, Lisa Munoz, off the road as she was driving home.<sup>63</sup> Garcia walked up to Lisa's vehicle and shot her three times in the head as she sat in her car.<sup>64</sup> He then shot himself and died at the scene.<sup>65</sup>

It was later discovered that two restraining orders had been issued against Garcia in the 1990s.<sup>66</sup> The first restraining order was issued in 1992 after Garcia had threatened a previous girlfriend.<sup>67</sup> The second restraining order was issued in 1993 at the request of Lisa's parents who were concerned that Garcia, who was then 22 years old, began dating Lisa when she was a minor.<sup>68</sup> Despite these restraining orders, Garcia was hired by the King City Police Department in 1996.<sup>69</sup> Two years later, he was hired by the Newark Police Department, which also failed to uncover the restraining orders during its initial screening and investigation of Garcia.<sup>70</sup>

The murder of Lisa Munoz ignited local inquiries into whether law enforcement agencies utilized adequate screening processes and background

checks for new recruits. These inquiries revealed that many law enforcement agencies failed to review civil and family court records when conducting background checks for new recruits.<sup>71</sup> In fact, the San Jose Mercury News conducted a survey of fifteen Bay Area law enforcement agencies and found that less than one-third reviewed civil and family court records when investigating prospective officers.<sup>72</sup>

One reason for this oversight was that state guidelines for conducting background checks of officer candidates do not require a search of civil and family court records. Minimum guidelines for conducting background checks are established by the Commission on Peace Officer Standards and Training ("POST"), a division of the California Department of Justice.<sup>73</sup> The minimum guidelines require law enforcement agencies to review federal and state criminal records, as well as other records evidencing the personal "character" of the candidate, such as driving and credit records. There is no requirement, however, that agencies review civil and family court records when investigating an officer candidate.<sup>74</sup> Even in the wake of the Munoz case, state law and POST guidelines were never amended to specifically require such an investigation.<sup>75</sup> Consequently, individual department policies dictate whether an agency will exceed minimum state guidelines, and investigate whether civil and family court proceedings demonstrate that a candidate has a history of domestic violence.<sup>76</sup>

The spotlight on problems in Los Angeles and Santa Clara County caused other law enforcement departments in California and across the nation to examine their own practices and track records in this area. However, as media and public attention on the issue waned, so did the momentum among police departments to aggressively address domestic violence within their ranks.

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## WHERE ARE WE NOW?

We interviewed representatives from thirteen law enforcement departments in different California counties<sup>77</sup> to assess current departmental policies and practices that address police-perpetrated domestic violence. The interviewees were the primary persons in their departments responsible for responding to complaints of domestic violence from police officer families. The results of these interviews are described below.

### **Departmental Attitudes**

Despite the many efforts to bring attention to officer-perpetrated domestic violence, this issue continues to be a sensitive subject for law enforcement departments:

- A majority of interviewees (8 out of 13) became very defensive when asked how their departments respond to complaints of officer-perpetrated domestic violence. One interviewee even made it a point to clarify that he has never committed an act of domestic violence against anyone.
- A majority of interviewees (8 out of 13) were extremely reluctant to provide any information about their policies and procedures for addressing officer-perpetrated domestic violence. This remained true even after the interviewer assured the interviewees that there was no expectation that they would share sensitive or confidential information. One interviewee claimed that it was against department policy to release this type of information to the public.

Our interviews also exposed some harmful attitudes among law enforcement departments and officers charged with responding to officer-perpetrated domestic violence:

- One interviewee stated that most incidents of domestic violence are “petty crimes” that are best addressed by sending couples

to relationship counseling rather than taking legal action. The majority of interviewees, however, acknowledged the need to treat domestic violence as a serious crime.

- Two interviewees conceded that one of the main impediments to identifying and prosecuting law enforcement officers who perpetrate domestic violence is the existence of a “police culture” of secrecy and loyalty among officers.
- While many interviewees valued domestic violence training for officers, one stated that rigorous training has not been sufficient to change core attitudes among fellow officers and community members that domestic violence, including domestic violence by police officers, is a not serious matter.
- Several interviewees adhered to the belief that victims are likely to come forward and report domestic violence despite feelings of embarrassment or fear of their abusers.
- One interviewee commented that because the surrounding community largely consists of uneducated, agricultural people, it would be impractical for the department to spend money and energy educating the community about domestic violence resources and services.
- All but one of the interviewees stated that their departments were doing an excellent job, and that there was nothing else that could be done to improve the investigation and prosecution of police officer domestic violence.
- In fact, when asked whether external oversight of how departments handle cases of police-perpetrated domestic violence was needed, one interviewee stated, “Our community loves us, so we don’t need a civilian review board.”

### **Departmental Policies**

While California law requires law enforcement departments to establish written protocols for responding to complaints of domestic violence in the community, there is no requirement that departments develop protocols for

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Most law enforcement departments that we surveyed had no specific policies or protocols in place for conducting criminal and administrative investigations of officer-perpetrated domestic violence.

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responding to officer-perpetrated domestic violence. The decision to develop an internal policy for handling such cases is left to the discretion of individual departments:

- Eleven (11) of the 13 departments surveyed had no specific written policies or protocols for conducting criminal investigations of officer-perpetrated domestic violence. Rather, many interviewees stated that there is an “expectation” within their departments that an officer accused of domestic violence will be treated like any civilian who perpetrates domestic violence, and will be subject to the same criminal laws. One department noted, however, that it is currently developing a “best practices” guide for conducting criminal investigations into domestic violence by officers.
- Eleven (11) of the 13 departments surveyed had no specific written policies or protocols for conducting administrative investigations of officer-perpetrated domestic violence. The majority of departments conducted such investigations according to their policies and protocols for addressing and punishing officer misconduct in general.
- Most interviewees were unaware of the model policies propagated by the International Association of Chiefs of Police for responding to officer-perpetrated domestic violence, as well as other national and local advocacy efforts to improve departmental response to this problem. This was particularly troubling given that all interviewees were identified as the primary persons within their respective departments responsible for responding to complaints of officer-perpetrated domestic violence.

### **Investigation and Accountability**

Each department surveyed conducts both a criminal and an administrative investigation in response to allegations of officer-perpetrated domestic violence. Departments reported taking similar approaches to handling these investigations:

- All of the departments surveyed require separate criminal and administrative investigations for allegations of officer-perpetrated domestic violence. In some counties, “separate” means that the criminal and administrative investigations are handled by different law enforcement investigators. In other counties, it means that criminal investigations are turned over to district attorney investigators, while the administrative investigation remains with the accused officer’s department.
- If the domestic violence incident occurs outside the department’s jurisdiction, the criminal investigation is conducted by the local law enforcement authorities and district attorneys where the incident occurred, while the department maintains authority over the administrative investigation.
- Most departments surveyed (10 out of 13) do not conduct concurrent criminal and administrative investigations of police-perpetrated domestic violence. Rather, the criminal investigation of the officer is completed first, and the case is referred to the district attorney. If charges are filed against the officer, most departments will wait until the criminal case is fully adjudicated before starting the administrative investigation.
- If the officer is criminally convicted of domestic violence, a majority of departments will terminate the officer. Some departments, however, will impose either suspension or termination, taking such factors into consideration as the officer’s history of abuse, the extent of the victim’s injuries, and whether the officer used any weapons.
- If the officer is acquitted or no criminal charges are filed by the prosecutor, 12 of the 13 departments surveyed still pursue an administrative investigation to see whether the officer violated any administrative or professional rules. In such cases, the officer can be required to undergo counseling or additional training on domestic violence, or may even be suspended or terminated. One department reported that it continues with an administrative investigation of the officer only if the allegations “seem serious.”
- Nearly half of the departments surveyed did not support conducting investigations into past allegations of domestic violence by officers.

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Most law enforcement departments attributed their low number of officer-involved domestic violence complaints to the fact that their departments are doing an excellent job in responding to this problem and their belief that the prevalence of intimate partner abuse within police families is actually lower than among civilians.

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Some departments, however, described unique partnerships and practices in their counties for investigating and responding to domestic violence by officers:

- One department has established a special unit within its Internal Affairs Department specifically to handle cases involving domestic violence by its officers.
- One department works closely with a special unit of its local district attorney's office whose sole purpose is to lead criminal investigations in cases involving public and/or high-ranking individuals, such as law enforcement officers and judges.
- One department has established a civilian review board to oversee all of its internal administrative investigations, including investigations of police officer domestic violence. Two other departments reported an interest in having a civilian review board or civilian oversight committee.

### **Outreach, Accessibility to Victims and Prevention Efforts**

When responding to domestic violence in the community, police departments take great pride when domestic violence calls for assistance to their department are "on the rise." Indeed, rising numbers of domestic violence reports to police are often applauded as evidence that law enforcement, the criminal justice system, and community advocates are doing a better job at making themselves accessible to victims and giving them the support they need to safely come forward and report abuse.<sup>78</sup>

Departments seem to adopt a very different perspective, however, when it comes to complaints of officer-perpetrated domestic violence. Disturbingly, most departments surveyed by CWLC attributed their low number of officer-involved domestic violence complaints to (1) the fact that their departments are doing an excellent job in responding to this problem and (2) their belief that

the prevalence of intimate partner abuse within police families is actually lower than among civilians.

- On interviewee noted a steep decline in complaints within the past five years, with a current average of two cases of domestic violence by officers each year. The interviewee attributed this decline to expanded education requirements for officers on domestic violence, and improved departmental awareness and practices about the seriousness of violence by officers.
- One interviewee attributed his department's low number of complaints of police officer domestic violence (4 complaints each year in a department of over 700 officers) to the fact that law enforcement officers are generally held to a higher standard of moral conduct than others in the community.
- A representative from a larger, urban department stated that, although the department receives approximately 60 complaints of police officer domestic violence each year, these complaints involved only 0.5 percent of its officers, whereas the prevalence of domestic violence among society in general is approximately 3 to 4 percent. He stated that these numbers reflect the good record that the department's officers have regarding domestic violence compared to the public at large.
- Two interviewees boasted that their departments had not received a single complaint of domestic violence against its officers in almost twenty years.

Several interviewees cited their low numbers of complaints as a reason why there was no need to devote time and resources to providing special outreach services to police families related to domestic violence. In fact, none of the departments surveyed conduct regular and ongoing outreach to intimate partners or family members of officers. None provide intimate partners or family members of officers with information about the unique dangers that victims of police officer domestic violence face, or how to file domestic violence complaints against officers with the department.

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Interviewees cited their low number of complaints as a reason why there was no need to devote time and resources to providing special outreach services to police families related to domestic violence.

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One department that we spoke to, however, recognized the need to take some proactive steps to educate officer spouses about domestic violence, and to make departments accessible to family members who may be experiencing abuse. This department reported holding a 4-hour training session for officer spouses to discuss the experience of living with a police officer. Issues of domestic violence were included in the training.

With regard to their efforts to prevent officer-perpetrated domestic violence, surveyed departments highlighted current recruiting and employment practices for identifying and addressing abusive or potentially abusive officers. These practices include screening new employees for abusive behavior and tendencies, educating officers about domestic violence, and providing employment-related services for officers with a history of abusive or violent behavior:

- Departments reported that polygraph tests for incoming officers have become standard, with some departments conducting psychological evaluations to specifically determine whether a recruit is prone to violent behavior.
- A majority of departments surveyed noted that current mandatory training and continuing education for officers on domestic violence helps ensure that officers are cognizant of laws prohibiting and criminalizing domestic violence.
- A majority of departments surveyed stated that they encourage and, in some cases recommend, that officers utilize employee assistance programs and counseling services if they are having problems with their spouses or significant others.

While these activities and services are beneficial, it is critical that law enforcement departments place a stronger emphasis on evaluating how they can better identify and respond to domestic violence by their officers. This includes demonstrating the department's commitment to holding its own accountable for domestic violence.

Improvement must begin with the recognition that just because a department receives only a handful of complaints of officer-perpetrated domestic violence each year, this does not mean its officers are not committing acts of domestic violence. To the contrary, given the significant barriers and isolation that victims of officer-perpetrated domestic violence face, and studies that indicate rates of domestic violence among law enforcement families to be at least comparable to those of the general public, a low number of complaints demonstrates that departments are not doing all they can to address this problem.<sup>79</sup>

Indeed, victim advocates argue that despite advancements, departments continue to trivialize, ignore and conceal officer-perpetrated domestic violence.<sup>80</sup> Some reasons cited by advocates for this lack of accountability include: (1) persisting attitudes among law enforcement that responding to officer-perpetrated domestic violence constitutes an improper intrusion into a fellow officer's private family life; (2) enduring codes of silence and loyalty among law enforcement that deter officers from acting when confronted with accusations that could jeopardize a fellow officer's employment or the department's reputation; (3) departmental incentives to protect officers from federal gun bans tied to domestic violence; and (4) institutional and societal resistance to acknowledging and addressing the unique barriers that effectively keep victims of officer-perpetrated domestic violence shut out of the normal channels of seeking help.<sup>81</sup>

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Victim advocates argue that despite advancements, law enforcement departments continue to trivialize, ignore and conceal complaints of officer-perpetrated domestic violence.

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## WHERE DO WE GO FROM HERE?

Based on our interviews with law enforcement representatives and our review of current research on officer-perpetrated domestic violence, we make the following recommendations for improving the response of law enforcement to officer-perpetrated domestic violence:

- **Law enforcement departments should develop and strictly enforce comprehensive written protocols for preventing, identifying and responding to officer-perpetrated domestic violence.** Existing law enforcement protocols for responding to domestic violence in the community fail to adequately address the unique dangers to victims and challenges for departments when members of law enforcement perpetrate acts of domestic violence. The same is true of existing protocols for conducting internal investigations into officer misconduct. For example, these protocols may not include procedures for protecting the safety of the victim of the officer's misconduct, which is vital in cases of officer-perpetrated domestic violence. It is critical, therefore, that departments adopt specific protocols for conducting criminal and administrative investigations into officer-perpetrated domestic violence.

Department protocols should include policies for ensuring the safety of victims and holding officers strictly accountable for confirmed acts of domestic violence or abuse. They should include strategies for preventing and identifying domestic violence by officers, as well providing intervention and support services for officers and family members. In addition, protocols should include policies for taking disciplinary action against officers and supervisors who fail to report or adequately respond to domestic violence by other officers. Departments should review model policies, such as those promulgated by the International Association of Chiefs of Police, in developing their policies.

- **Law enforcement leaders should institutionalize a “zero tolerance” policy within their departments for domestic violence by officers.** Protocols regarding officer-perpetrated domestic violence are meaningless unless they are accepted and strictly enforced by all levels of law enforcement. Accordingly, the effective enforcement of such protocols cannot be achieved in a “police culture” that promotes harmful attitudes and loyalties among officers. Chiefs of police and other law enforcement leaders have the greatest ability to change core attitudes within their departments that promote and protect acts of domestic violence and abuse by officers. Law enforcement leaders must reinforce written protocols with clear departmental mandates that domestic violence is serious crime that will not be tolerated by the department.

- **Criminal investigations of complaints of officer-perpetrated domestic violence should be separate from and independent of departments' own administrative investigations into such complaints.** To ensure the greatest protection from bias, criminal investigations of officers accused of domestic violence should be immediately referred to and conducted by investigators within the office of the district attorney where the abuse occurred. Departments should also conduct a comprehensive internal investigation of the officer to determine whether disciplinary action is warranted, regardless of the outcome of criminal proceedings against the officer.

- **Departments should adopt hiring and recruiting practices that screen out potentially violent or abusive officers.** Departments should conduct thorough background checks on all potential employees that include investigations into prior allegations, disciplinary actions, or convictions relating to domestic violence or other violent conduct by prospective officers. Background checks must include a search of civil and family court records, as well as the California Law Enforcement Telecommunications System ("CLETS"),<sup>82</sup> to identify prior restraining orders or other evidence of past abuse by a candidate. Departments should also utilize psychological screening tools that focus on identifying violent and abusive behaviors or tendencies among applicants.<sup>83</sup>

- **Departments must conduct regular outreach and educational activities related to domestic violence for the intimate partners and families of officers.** Departments must be committed to being accessible to, and supportive of, intimate partners and families of officers who may be experiencing abuse. This includes regularly advising partners and families of criminal laws and department policies on domestic violence, and explaining who to contact within the department to file a domestic violence complaint. It also involves communicating the department's policies for investigating and resolving a domestic violence complaint, and which department and/or community support services are available to victims of domestic violence. Services and outreach to intimate partners and family members should be confidential, and should emphasize the department's commitment to protecting the safety of domestic violence victims.

- **Departments should train supervisors to identify the warning signs of domestic violence and abuse by officers.** Departments should provide supervisors at all levels of law enforcement with a copy of departmental policies for addressing officer-perpetrated domestic violence. Departments should advise supervisors of their specific duties pursuant to these policies. Departments should also provide supervisors with the training and

tools needed to effectively identify and intervene in a situation in which an officer is exhibiting abusive conduct or tendencies. Supervisors who fail to adhere to established policies should be disciplined.

- **Departments should train all levels of law enforcement personnel how to address officer-perpetrated domestic violence.** Current domestic violence training for law enforcement personnel tends to focus on the general dynamics of domestic violence, and how officers should respond to such incidents in the community. Officers must also be educated about the unique dynamics of officer-perpetrated domestic violence, as well as their own potential for perpetrating abuse. Officers should be informed of departmental policies prohibiting domestic violence and holding officers accountable for abuse. Training should include strategies to prevent and identify abuse in officers' personal relationships or those of their peers. Training should also include education on how officers can use communication and nonviolent conflict resolution skills in their personal and professional lives as alternatives to force and aggression.

- **Departments should provide counseling and support services to officers and their families aimed at reducing work-related stress and addressing interpersonal conflicts.** Adopting a purely punitive approach to officer-perpetrated domestic violence only serves to promote the concealment and escalation of abuse in officer families. Accordingly, departments must provide officers with the encouragement and support they need to feel comfortable utilizing employment resources to address personal problems and conflicts, before these conflicts escalate into violence. These support services, however, should be offered as preventative measures only. The existence of these services does not excuse a department from failing to hold officers criminally and internally accountable for domestic violence or failing to take adequate steps to protect the safety of a victim of officer-perpetrated domestic violence.

- **Departments should establish a civilian review board or other external oversight body for overseeing complaints of domestic violence and other misconduct by officers.** Civilian oversight may be the only effective, immediate solution for achieving objectivity, officer accountability and victim safety for departments with a history of and reputation for trivializing domestic violence and other misconduct by officers. To be truly effective, a civilian oversight board should be comprised of neutral experts with a background in criminal justice and/or civil rights. The board should be appointed by, and operate out of, a neutral government agency, and be vested with the authority required to investigate, evaluate and resolve complaints of officer misconduct. This includes the authority to issue subpoenas and recommend the disposition of complaints. Alternatively, a department

should establish an ombudsman or designate a government office external to itself to receive complaints of domestic violence and other misconduct by officers.

- **Counties should be required to document, track and report uniform data on all incidents of domestic violence by law enforcement, including the criminal and administrative dispositions of each complaint.** Departments should be required to maintain comprehensive and accurate records of all complaints of domestic violence against their officers. This includes documenting the steps taken by the department to investigate each complaint, the results of investigations, and the criminal and administrative dispositions of the complaints. Moreover, as incidents of officer-perpetrated domestic violence can occur in another jurisdiction or may simply escape the attention of an officer's supervisor or internal affairs department, departments should utilize existing statewide criminal justice databases and internal tracking systems to monitor all domestic violence-related incidents involving their officers. On a broader level, requiring departments to make annual reports to the state regarding the number, nature and disposition of domestic violence complaints against officers will enable government and community agencies to better address the incidence of officer-perpetrated domestic violence in California.

- **Departments should work with prosecutors and victim advocates to identify strategies for ensuring the safety of victims of officer-perpetrated domestic violence.** Victims of officer-perpetrated domestic violence face significant barriers and extreme vulnerability in accessing existing domestic violence resources and legal protections, including accessing emergency shelters and applying for and enforcing civil protective orders. Law enforcement, prosecutors and advocates need to work together to modify current policies, practices and protocols to ensure that they more adequately address the safety needs of victims who are abused by officers.

- **State law should be amended to remove the "public interest" exception that allows law enforcement officers who have been criminally convicted of misdemeanor domestic violence to seek relief from firearms restrictions.** Although all domestic violence misdemeanants and felons are strictly prohibited by state law from owning or possessing firearms for a period of 10 years, state law provides an one-time exemption to this prohibition for domestic violence misdemeanants who are law enforcement officers. Pursuant to this exemption, officers can petition the court to regain access to their firearms if their livelihood is dependent upon their ability to legally possess a gun. Given the serious and unique dangers posed by officer-perpetrated domestic violence, these perpetrators must, at a minimum, be held to the same firearm restrictions as all other domestic violence misdemeanants. Although removing the "public interest" exception can have a negative impact on an

officer-perpetrator's employment, this interest is outweighed by the public's and the victim's interest in preventing an officer with a proven history of violence from legally carrying a firearm.

- **Federal laws that impose a permanent ban on firearm ownership and possession for domestic violence misdemeanants, including misdemeanants who are law enforcement officers, should be strictly enforced.** Federal law imposes a permanent life ban on gun ownership and possession for all persons, including law enforcement officers, who have been convicted of a misdemeanor crime of domestic violence. However, misdemeanants are rarely held accountable by federal law enforcement agents and prosecutors when they violate this prohibition. Federal agents and prosecutors should be more proactive in identifying and prosecuting domestic violence perpetrators who violate federal guns restrictions. In addition, local criminal courts should notify domestic violence misdemeanants upon conviction that they are subject to, and may be prosecuted for violating, federal gun bans in addition to firearms restrictions imposed by state law.

- **Conduct comprehensive data collection and research on the causes and prevalence of domestic violence within California law enforcement families.** While numerous studies have been conducted on police-perpetrated domestic violence, most have involved small samples of officers and law enforcement departments in other states. Consequently, to date there has not been a comprehensive examination of domestic violence against the intimate partners and families of law enforcement officers in California. Such an examination is needed to assess the true nature and incidence of officer-perpetrated domestic violence in our state, and to raise awareness of this important issue.

(Footnotes for Gun Restrictions Table)

i. CAL. FAM. CODE § 6389 (a)(2005) and CAL. CODE CIV. PROC. § 527.9 (a)(2005).

ii. The court may grant a petition for a “public interest” exception if the party can show that “a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the [party] to another position where a firearm is unnecessary.” If a petition is granted, the court is required to order that the party only be allowed to possess the firearm during scheduled work hours and during travel to and from work. However, a court may allow a party whose personal safety depends on the ability to carry a firearm to possess the firearm both on duty and off duty if the court finds by preponderance of the evidence that the officer does not pose a threat of harm. This finding must be based on a psychological evaluation of the party and the court may require the party to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence. CAL. FAM. CODE § 6389(h) and CAL. CODE CIV. PROC. § 527.9 (f).

iii. 18 U.S.C. § 922(g)(8).

iv. 18 U.S.C. 925(a)(1).

v. CAL. PEN. CODE § 12021(c)(1) (2005).

vi. An officer may petition the court only once for relief from state firearm restrictions for domestic violence misdemeanants. In order to grant the petition, the court must find by preponderance of the evidence that the petitioner is likely to use the firearm in a safe and lawful manner. In addition, the petitioner must not have any previous convictions for violating state firearm restrictions for misdemeanants and felons and must not otherwise be prohibited from possessing a firearm as specified. CAL. PEN. CODE 12021(c)(2) (2005).

vii. 18 U.S.C. §922(g)(9).

viii. 18 U.S.C. 925(a)(1).

ix. However, as a federal offense, only federal prosecutors have the authority to bring charges and prosecution rates are extremely low. From 1997-2001, only 378 cases were filed under section 922(g)(9) by U.S. Attorney’s offices. It has been estimated that there may be as many as one million potential defendants who would meet the requirements for prosecution under federal law. Tom Lininger, *A Better Way to Disarm Batterers*, 54 HASTINGS L.J. 525, 532 (2003).

x. 18 U.S.C. § 922 (d)(9).

xi. In July 2002, the General Accounting Office documented that at least 3,000 persons subject to the gun ban under section 922(g)(9) were able to acquire new guns from federally licensed dealers between 1998 and 2001. Lininger, *supra* note 9 at 532.

xii. CAL. PEN. CODE §12021(a)(1) (2005).

xiii. CAL. PEN. CODE § 4852.17 (2005).

xiv. 18 U.S.C. §922(g)(1).

xv. 18 U.S.C. § 925(a)(1).

xvi. Congress instituted a permanent firearm ban solely for domestic violence misdemeanants because existing state laws adequately deal with firearm restrictions for felons. T.J. Halstead, *Firearm Prohibitions and Domestic Violence Conviction: The Lautenberg Amendment*, CRS Report for Congress (2001) at 8.

(Footnotes)

1. H. Laurie, et al., *Woman's Slaying Fits Domestic Abuse Profile*, ORANGE COUNTY REG. (Oct 29, 1999) at A25; S. Pfeifer, et al., *Allegations of Abuse Never Stuck to Wanted DEA Agent*, ORANGE COUNTY REG. (Oct. 29, 1999) at A24; B. Rams, et al., *DEA Agent Wanted in Shooting Death*, ORANGE COUNTY REG. (Oct. 29, 1999) at A1; W. Orshoski, et al., *Fugitive DEA Agent Kills Self*, ORANGE COUNTY REG. (Oct. 31, 1999) at A1.

2. P.H. Neidig, A.F. Seng, & H.E. Russell, *Interspousal Aggression in Law Enforcement Personnel Attending the FOP Biennial Conference*, NAT'L FOP J., Fall/Winter 1992, at 25-28.

3. Jacquelyn Campbell & Anna D. Wolf, *Risk Factors for Femicide in Abusive Relationships: Results From a Multi-Site Case Control Study*, AM. J. PUB. HEALTH, July 2003 (finding that access to guns is one of the strongest predictors of female homicide in abusive relationships, increasing a victim's risk of murder more than five times than when no weapons are present).

4. Sandra Stone, *Barriers to Safety for Victims of Police Domestic Violence*, in U.S. DEP'T OF JUSTICE, FED. BUREAU OF INVESTIGATION, *Domestic Violence by Police Officers: A compilation of Papers Submitted to the Domestic Violence by Police Officers Conference at the FBI Academy in Quantico, VA*, 331-42 (Donald Sheehan ed., 2000) [hereinafter FBI DOMESTIC VIOLENCE COMPILATION].

5. P. Conis, K. Lonsway, & D. Wetendorf, *Lessons Learned From Tacoma: The Problem of Police Officer Perpetrated Domestic Violence* (2003).

6. California Family Code §6224 requires that all restraining orders issued pursuant to the Domestic Violence Prevention Act state, on their face, "This order is effective when made. The law enforcement agency shall enforce it immediately on receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order or is shown a copy of the order."

7. Diane Wetendorf, *The Impact of Police-Perpetrated Domestic Violence*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4 at 375-382.

8. Conis et al., *supra* note 5.

9. For a more thorough examination of the unique dynamics of officer-perpetrated domestic violence, see Wetendorf, *supra* note 7.

10. See *Wright v. Vill. of Phoenix*, 2000 U.S. Dist. LEXIS 2182 (N.D. Ill. 2000) (upholding claims that a police department's failure to respond to a wife's complaints of domestic violence because her husband was the police chief, which led to an escalated pattern of violence that caused her murder, constituted a violation of 42 U.S.C. §1983); see section of this report entitled *Legal Liability of Law Enforcement*.

11. Leonor Boulton-Johnson, *On the Frontlines: Police Stress and Family Well-Being* (May 1991) (paper presented at a hearing before the Select Committee on Children, Youth, and Families, U.S. House of Representatives, 102<sup>nd</sup> Congress).

12. *Id.*

13. The Johnson study failed to include a clear definition of "violence." Thus, of the 40 percent of officers who acknowledged the presence of abuse within their families, it is unclear how many were referring to physical abuse, verbal abuse, or both.

14. P.H. Neidig, H.E. Russell, & A.F. Seng, *Interspousal Aggression in Law Enforcement Families: A Preliminary Investigation*, POLICE STUD.: THE INT'L REV. OF POLICE DEV., 1992, at 30-38.

15. *Id.*

16. The Southwestern Law Enforcement Institute is now called the Institute for Law Enforcement Administration.

17. Boyd Larry, Daniel Carlson, Rick Smith and Gary Sykes, *Domestic Assault Among Police: A Survey of Internal Affairs Policies*, THE INST. FOR LAW ENFORCEMENT ADMINISTRATION (1995), available at <http://www.cailaw.org/ilea/publications.html> (accessed August 10, 2005).

18. *Id.*

19. *Id.*

20. FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4.

21. *Id.*

22. Robert Sgambelluri, *Police Culture, Police Training, and Police Administration: Their Impact on Violence in Police Families*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Stone, *supra* note 4; Roger Wittrup & Donald McLellan, *The Role of Entitlement in Domestic Abuse Cases Committed by Law Enforcement Personnel*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4.

23. A. L. Honig and E. K. White, *Violence and the Law Enforcement Family in Law Enforcement Families: Issues and Answers*, at 101-109 (J.T. Reese & E. Scrivner, eds.) (1994); Ellen Kirschman, *I Love a Cop: What Police Families Need to Know* (Guilford Press 1997); Diane Wetendorf, *Police Perpetrated Domestic Violence*, NAT'L CTR. FOR WOMEN & POLICING, (1998) (1998 Annual Conference).

24. Leonor Boulton-Johnson, *Burnout and Work and Family Violence Among Police: Gender*

*Comparisons*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Daniel J. Tyler, *Pitfalls of Police Work Leading to Domestic Violence*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; *see also*, Honig and White, *supra* note 23.

25. Stone, *supra* note 4; Wetendorf, *supra* note 7 at 375-382.

26. Nancy Bohl, *Preventing Domestic Violence*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Donald D. Lott & Philip S. Trompetter, *Bad Apples and Bad Barrels: Establishing Departmental Policy and Procedure to Combat Domestic Violence by Police Officers*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Stone, *supra* note 4. The Code of Silence has also been cited as a source of law enforcement's failure to address incidents of sexual harassment, discrimination and excessive force by its officers. *See Shielded From Justice: Police Brutality and Accountability in the U.S.*, HUMAN RIGHTS WATCH (1998) (officers who commit human rights violations are routinely protected by the silence of their fellow officers); Merrick J. Bob, *Eleventh Semiannual Report on the Los Angeles County Sheriff's Department* (1999) (Code of Silence contributes to an atmosphere of sexual harassment and complaint trivialization); MANAGEMENT PRACTICES GROUP, *Los Angeles County Sheriff's Department Analysis and Evaluation* (2000) (police Code of Silence exists and is strongly reinforced by retaliatory conduct, attributing to pervasive sexual harassment and discrimination within law enforcement agencies).

27. Bohl, *supra* note 26; Michael Champion, *Small Police Departments and Police Officer-Involved Domestic Violence: A Survey*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Daniel Clark, *Domestic Violence Committed by Law Enforcement: A Curriculum Proposal*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Constance Klein & Robert Klein, *The Extent of Domestic Violence Within Law Enforcement: An Empirical Study*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Thomas Kraft, *Violence Risk Assessment for Police Force Families*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Vicki Quinn, *Training Approaches for the Prevention of Officer-Involved Domestic Violence*, in FBI DOMESTIC VIOLENCE COMPILATION, *supra* note 4; Sgambelluri, *supra* note 22; Stone, *supra* note 4.

28. *See Nat'l Ass'n of Gov't Employees, Inc. v. Barrett*, 968 F.Supp. 1564 (N.D. Ga. 1997), *aff'd*, 155 F.3d 1276 (11th Cir. 1998); *Fraternal Order of Police v. United States*, 152 F.3d 998 (D.C. Cir. 1998); *United States v. Gillespie*, 185 F.3d 693 (7th Cir. 1999); *United States v. Mitchell*, 209 F.3d 319 (4th Cir. 2000). The Lautenberg Amendment was also challenged on the grounds that its retroactive application violated Article 1, §9, cl. 3 (Ex Post Facto Clause) of the United States Constitution. *See Nat'l Ass'n of Gov't Employees*, 968 F.Supp. at 1575-76; *United States v. Mitchell*, 209 F.3d at 322-23.

29. V. Kappeler, *Kentucky's Response to the Lautenberg Act: Curbing Domestic Violence Among Police* (1999).

30. *Id.*

31. *Id.*

32. NAT'L CTR. FOR WOMEN & POLICING, *Domestic Violence Offender Gun Ban Fact Sheet* [citing Ed Meyer, et al., *Few Lose Jobs*, AKRON BEACON J. (December 5, 1999)].

33. Studies indicate that law enforcement families experienced significant rates of domestic violence prior to the passage of the Lautenberg Amendment. See Johnson, *supra* note 11 (10 percent of officer spouses surveyed reported physical violence by their officer-spouse within the six months prior to the survey); Neidig, et al., *supra* note 14 (28 percent of officers surveyed admitted that they were physically violent toward their intimate partners within the prior year); and Boyd, *supra* note 17 (28 percent of law enforcement agencies surveyed experienced an increase in officer-involved domestic violence between 1992 and 1994).

34. See Conis, et al., *supra* note 5.

35. INT'L ASS'N OF CHIEFS OF POLICE, *Domestic Violence by Police Officers: A Policy of the IACP Police Response to Violence Against Women Project* (1999).

36. INT'L ASS'N OF CHIEFS OF POLICE, *Discussion Paper on IACP's Policy on Domestic Violence by Police* (2003), available at <http://www.theiacp.org/documents/pdfs/Publications/domviolconceptpaper.pdf> (accessed August 10, 2005).

37. *Id.*

38. Kimberly Lonsway, *Policies on Police Officer Domestic Violence: Prevalence and Specific Provisions Within Large Police Agencies* (publication pending; on file with author).

39. *Id.* at 25-26.

40. *Id.* at 12-26.

41. The records were obtained by Mullally while serving as an expert witness in a civil rights lawsuit filed against the City of Los Angeles by the family of Melba Ramos, who was shot and killed by her ex-husband, an LAPD officer. *Wynn v. City of Los Angeles*, No. CV 93-3026-WDK (L.A. County Sup. Ct. 1993). Mullally was subsequently prosecuted for criminal contempt for disclosing the confidential records in violation of a court order. David Rosenzweig, *Consultant in Contempt for LAPD Leak*, LOS ANGELES TIMES (January 6, 2001). The criminal prosecution of Mullally incited ardent protest from victims, advocates, criminal justice professionals and other community members who felt that Mullally's actions were heroic and justified. Mullally was convicted and sentenced to sixty days in jail. His sentence was later overturned. *Mullally v. City of Los Angeles*, 49 Fed. Appx. 190 (2002).

42. Kathrine Mader, *Domestic Violence Task Force & Office of the Inspector Gen. Domestic Violence in the Los Angeles Police Department: How Well Does the Los Angeles Police Department Police its Own?* LOS ANGELES DOMESTIC VIOLENCE TASK FORCE (1997).

43. *Id.* at 6-7 (figures A-1 & A-2).

44. *Id.*

45. *Id.* at 8-9.

46. *Id.*

47. *Id.* at 8-9, 31.

48. In one case, an officer was terminated after five previous complaints of domestic violence against his girlfriend, who was also an officer, the last of which occurred in another county and resulted in the officer-abuser pleading “no-contest” to a charge of spousal battery.

*See Mader, supra* note 42 at 31.

49. *Id.* at 15-16.

50. *Id.*

51. *Id.* at 30-31.

52. *Id.* at ii.

53. *Id.* at ii-iii.

54. *Id.* at 30.

55. The OIG made a total of forty-five recommendations as a result of its investigation of the LAPD. *Id.* at 39-44.

56. Scott Glover, *Domestic Violence Arrests Within LAPD Rise*, LOS ANGELES TIMES (February 20, 1998) at B1 (Valley Edition); *LAPD Domestic Abuse Unit Probes 22 Cases*, LOS ANGELES TIMES (April 2, 1998) at B4 (Home Edition).

57. *Review of Quarterly Discipline Report, Third Quarter 2003*, OFFICE OF THE INSPECTOR GEN. (2004) (on file with author).

58. *Id.* at 2-7.

59. *Id.* at 2-3.

60. *Id.*

61. *Id.*

62. *Id.*

63. Ron Kitagawa et al., *Slaying Victim’s Last Plea Highway Drama: Frantic Cell Calls Couldn’t Stop Jealous Cop*, SAN JOSE MERCURY NEWS (November 10, 1999) at 1A.

64. *Id.*

65. *Id.*

66. Michelle Guido, *Garcia Had Faced Two Restraining Orders Over Girls, Killer’s Troubled Past Revealed*, SAN JOSE MERCURY NEWS (November 13, 1999) at 1A.

67. *Bay Area Datelines*, S.F. EXAM’R (November 17, 1999).

68. *Id.*

69. See Kitagawa, *supra* note 63.

70. Michelle Guido, *Police Fail to Check Records in Hiring Background: Many Agencies Don't Study Files that Could Show Applicants' Family, Civil Court Troubles*, SAN JOSE MERCURY NEWS (November 21, 1999) at 1A.

71. *Id.*

72. *Id.*

73. CAL. PEN. CODE §13500 (2005); 11 C.C.R. 1002.

74. CAL. GOV. CODE §1031 (2005); 11 C.C.R. 1002; COMM'N ON PEACE OFFICER STANDARDS & TRAINING, *POST Administrative Manual*, §§ C-1-1 - C-1-6.

75. *Id.*

76. CAL. GOV. CODE §1031 (2005) states, in relevant part, "[t]his section shall not be construed to preclude the adoption of additional or higher standards."

77. Departments surveyed were from the following counties: Santa Clara County, San Jose County, Orange County, Los Angeles County, Riverside County, San Diego County, Monterey County, San Francisco County, Alameda County, Fresno County, Sacramento County, Humboldt County, and Kern County.

78. John Johnson, *Behind the Badge. Three Months with the LAPD*, LOS ANGELES TIMES (July 30, 1995) at A1 (former Inspector General Katherine Mader quoted as saying, "if citizens perceived that their complaints would actually be heard, they may have more confidence in the police agency and the number of citizen complaints will actually rise.")

79. See Johnson, *supra* note 11 (10 percent of officer spouses surveyed reported physical violence by their officer-spouses within the six months prior to the survey); Neidig, et al., *supra* note 14 (28 percent of officers surveyed admitted that they were physically violent toward their intimate partners within the prior year); and Boyd, *supra* note 17 (28 percent of law enforcement agencies surveyed experienced an increase in officer-involved domestic violence between 1992 and 1994).

80. See Wetendorf, *supra* note 7 at 375-382; NAT'L CTR. FOR WOMEN & POLICING, *Police Family Violence Fact Sheet*, available at <http://www.womenandpolicing.org/violenceFS.asp> (accessed August 10, 2005); Stone, *supra* note 4; Renae Griggs, NAT'L POLICE FAMILY VIOLENCE PREVENTION PROJECT, Online Question and Answer Session hosted by the Feminist Majority Found. (May 2003), available at <http://www.feminist.org/chat/griggs05142003.asp> (accessed August 10, 2005).

81. Wetendorf, *supra* note 7, at 375-382; NAT'L CTR. FOR WOMEN & POLICING, *supra* note 80 Stone, *supra* note 4; Griggs, *supra* note 80.

82. CAL. FAM. CODE § 6380 (2005).

83. State guidelines currently require departments to conduct “psychological suitability” tests on prospective officers to identify job-relevant personality disorders or patterns of abnormal behavior. See COMM’N ON PEACE OFFICER STANDARDS & TRAINING, *POST Administrative Manual*, §§ C-2-1 - C-2-11.