

NINA CLARE LEIBMAN

Nina was a dynamic and accomplished woman. As a young girl growing up in the San Fernando Valley, Nina developed a passion for cinema that led to a career as a professor of film and television studies. Nina served on the faculty of Loyola Marymount University, the University of California at Santa Cruz, and Santa Clara University where she was well-liked and respected by her students and peers. By the age of 38, Nina had authored numerous publications in her field and had published her first book.

Nina's greatest passion, however, was her two children, Philip and Laura. Nina was a loving mother who had close, devoted relationships with her family and an intimate circle of friends. Even those who knew Nina briefly were struck by her intelligence, accessible nature, and contagiously warm spirit.

What was not immediately apparent about Nina, however, was that she was in an abusive marriage. By 1995, the verbal and emotional abuse heaped upon Nina and her children by her husband of ten years, Ken Donney, had seriously escalated. Consequently, in September of 1995, Nina filed for divorce. Because Ken's attorney advised him not to move out of the family home until he had secured a custody arrangement for the children, Nina began sleeping on the foldout couch in the den of the home while the couple negotiated a custody agreement.

In the early morning hours of October 27, 1995, the day before he was scheduled to move out of the family home, Ken entered the den where Nina slept, and closed the door. He woke Nina, beat her in the face, and stabbed her multiple times in the chest with an eight-inch kitchen knife. Nina, who did not have her glasses on and was legally blind without them, was unable to defend herself or escape. When she finally collapsed near the foot of the bed, she had more than two dozen stab wounds. Her seven year-old son, Philip, was



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awakened by her screams and went to check on his mother. The last words that Philip heard his mother say were, "I don't want to die." Ken responded, "You should have thought of that before."

On May 14, 1996, a week before his trial date, Ken pled guilty to second-degree murder. Although Ken claimed that he wanted to spare his children the pain of a criminal trial, his guilty plea also spared him from the possibility of a conviction for first degree murder and a minimum mandatory sentence of 25 years to life in prison. Ken is now serving sixteen years to life at the California Men's Colony in San Luis Obispo.

The horror of Nina's story did not end with her brutal murder. Community members expressed disbelief over the fact that this kind of violence could happen in what seemed to be a perfect, upper-middle class family. Disturbingly, Ken received public support from numerous colleagues and friends and was often portrayed as one of the "victims" of the heinous crime that he committed. Even the judge who presided over Ken's sentencing hearing described the murder as a "family tragedy," rather than as a malicious and criminal act of violence. The media painted a sympathetic portrait of Ken as a loving father and a gentleman who had been driven to murder simply because he loved his family too much. What is worse, some reporters and community members suggested that Nina was somehow at fault for her own murder by focusing more on her actions prior to her murder, rather than Ken's, such as the fact that she minimized Ken's abusive behavior to others, failed to get a kick out order after filing for divorce and refused Ken's attempts to reconcile for the children's sake.

Taken together, these portrayals not only trivialize the brutality and injustice of Nina's murder, they absolve Ken Donney of personal accountability for the crime he committed. Moreover, the depiction of intimate partner murder as a shocking and unexpected family tragedy overlooks the preventable nature of many of these deaths and absolves the community of its responsibility for

developing ways to better identify and intervene in potentially violent and lethal relationships.

INTIMATE PARTNER FEMICIDE

Although a decade has passed since Nina's murder, her story continues to echo in the lives and deaths of women murdered by their intimate partners. Women in California are more likely to be killed by their intimate partners than by strangers.¹ Indeed, although women accounted for only 19 percent of all homicide victims in 2002,² they constituted almost 80 percent of all intimate partner homicide victims that year.^{3, 4} Overall, an average of 124 women are killed each year in California as a result of domestic violence, and this number has been increasing in recent years.⁵ The loss of each of these lives is the loss of a mother, daughter, sister or friend. It is the loss of a life that contributed, and should have continued to contribute, to society and the lives of those around them.

What is most tragic about these deaths is that many of them could have been prevented. Effective legal and community interventions can break the cycle of domestic violence before it escalates into serious violence or murder and provide victims and their children with services that enable them to leave and survive an abusive relationship. Indeed, regardless of the nature and extent of abuse suffered by a victim, every woman in an emotionally or physically abusive relationship faces a risk of lethal violence by her abuser. Whether abuse is physical, emotional, economic or sexual, an abuser's primary objective is to establish power and control over his victim.⁶ In such cases, taking the victim's life becomes the ultimate exertion of power and control by an abuser over his victim. It is critical, therefore, that all legal and community systems that come into contact with victims and/or perpetrators of domestic violence are able to effectively identify and respond to signs of abuse in a relationship.

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THE MURDER AT HOME PROJECT

The Murder at Home Project was established in 1999, in memory of Nina Clare Leibman. The Project investigates and highlights systemic problems concerning the prevention and punishment of intimate partner femicide in California. The Project also examines how media language with regard to these cases shapes the public's view and awareness of intimate partner murder, contributing to stereotypes that can keep women in danger or create unjustified sympathy for batterers who kill their partners. The overarching goal of the Murder at Home Project is to advance policies that improve the way in which California's criminal justice and community agencies respond to domestic violence and domestic violence murder.

The Murder at Home Project focuses on domestic violence deaths in order to provide a more expansive analysis of how legal and community systems respond to domestic violence in general. When a domestic violence death occurs, for example, it is important to first examine what could have been done to prevent that death. A variety of different government agencies and community systems play a role in responding to domestic violence. Each of these agencies and systems must be responsible for appropriately intervening in domestic violence situations before they escalate into serious injury or death. Focusing on domestic violence deaths also requires an examination of the various issues that arise after an intimate murder has occurred. Effective criminal prosecution, data collection and media coverage concerning these murders all contribute to the prevention of domestic violence and domestic violence deaths.

Another goal of the Murder at Home Project is to advance policies derived from actual intimate murder cases and concerns raised by professionals who work in the domestic violence field. For example, our first major achievement under the Project was to secure legislation to address a problem highlighted by Nina's case. One of the factors that contributed to Nina's risk of harm was that she and Ken were living together in the family home while they were

going through divorce proceedings. The reason that Ken was still living in the family home at the time of the murder was that he was advised by his family law attorney that moving out of the home and leaving the children with Nina could jeopardize his child custody rights. We conducted a survey of family law attorneys and discovered that this legal advice was routine in family law cases involving a child custody dispute. The reason for the advice was that, at the time, courts tended to view the fact that a parent has moved out of the family home as a negative reflection of that parent's relationship with, and responsibility for, their children.

We felt that forcing parties to remain in the same home when they are going through a divorce or child custody dispute creates a "pressure cooker" situation that can ignite violence even in relationships with no prior history of abuse or conflict between the parties. Moreover, we feared that domestic violence victims would be unfairly denied custody of their children if they were forced to flee their abusers while child custody proceedings were pending and did not have the resources to take their children with them. Codified in Family Code Section 3046, the legislation that we helped secure prohibits family courts from considering the fact that a parent has moved out of the family home as a factor in determining that parent's custody or visitation rights, particularly where a parent leaves the home to escape domestic violence.

In addition to this effort, through the Murder at Home Project, we have advocated for numerous legislative and policy changes to enhance domestic violence prevention efforts. We have also engaged in public education, training, technical assistance, and high impact litigation aimed at improving prevention efforts. Shortly after the Project was established, however, it became clear that a comprehensive examination of legal and community responses to domestic violence was needed in order to adequately address the complex nature of domestic violence, as well as the complex relationships among the various systems that address this violence. It is for this reason that we decided to issue this groundbreaking report.

THE MURDER AT HOME REPORT – SCOPE AND METHODOLOGY

There are a variety of different legal and community systems that play a vital role in identifying and responding to abuse suffered by domestic violence victims. Whether it is the criminal justice system, social service system, medical community, legal services, family courts, or a victim's personal support system — each of these systems must be responsible for appropriately intervening and responding to domestic violence before this violence escalates into serious injury or death. *Murder at Home: An Examination of Legal and Community Responses to Intimate Partner Femicide in California* (“Murder at Home Report”) is a comprehensive assessment of how different systems work together, and separately, to address domestic violence and domestic violence murder in our state.⁷

This first volume of the Murder at Home Report focuses on law enforcement and probation department responses to domestic violence, as well as inter-agency efforts to gain meaningful information and prevention strategies through post-homicide data collection and domestic violence death reviews. Also included in this volume are the results from our survey of 100 cases, occurring from 1998 through 2002, in which women were murdered by their male intimate partners (“100-Case Survey”).

Future volumes of the Murder at Home Report will examine other systems and issues that play a role in domestic violence homicide prevention including the criminal prosecution and punishment of domestic violence, medical community responses to domestic violence, family court responses to domestic violence, civil remedies for domestic violence, and economic issues facing domestic violence victims. We will also examine how domestic violence prevention efforts and issues impact underserved communities of victims including young women, women of color and women in rural communities.

The Murder at Home Report addresses the following three areas for each topic covered:

- **How Far Have We Come?** Chronicles important advancements and setbacks concerning domestic violence prevention and response efforts in the targeted area.
- **Where Are We Now?** Summarizes research and commentary gathered from interviews with professionals who work in the domestic violence field in order to reflect the current status of prevention and response efforts in the targeted area.
- **Where Do We Go From Here?** Sets forth policy recommendations for improving legal and community responses to domestic violence and domestic violence murder in the targeted area.

The assessments of current practices and policy recommendations included in this volume are based, in part, on interviews and roundtable discussions⁸ conducted with over 100 professionals throughout the state who work in the domestic violence field. These professionals included coroners, prosecutors, law enforcement officers, probation officers, healthcare professionals, victim advocates, family law attorneys, civil rights attorneys, victim-witness assistance representatives, representatives from the California Attorney General's Office, and academics. Our interviews and roundtable discussions reached professionals in 41 out of 58 California counties. Our assessments and recommendations were also based on our analysis of current research and model programs concerning domestic violence prevention, as well as the results of our 100-Case Survey.

(Footnotes)

1. The California Department of Justice was able to identify the relationship of the victim and offender in 345 femicides that occurred in California in 2002. Forty-one (41) percent of these femicides were perpetrated by an intimate partner. Only 17 percent were perpetrated by a stranger. See *Homicide Crimes 2002: Gender and Race/Ethnic Group of Victim by Relationship of Victim to Offender*, CALIFORNIA DEPARTMENT OF JUSTICE, CRIMINAL JUSTICE STATISTICS CENTER, Table 12, available at <http://caag.state.ca.us/cjsc/publications/homicide/hm02/tabs/12.pdf> (accessed August 9, 2005).

2. *Homicide Crimes, 1993-2002: By Gender of Victim*, CALIFORNIA DEPARTMENT OF JUSTICE, CRIMINAL JUSTICE STATISTICS CENTER, Table 2, available at <http://caag.state.ca.us/cjsc/publications/homicide/hm02/tabs/2.pdf> (accessed August 9, 2005).

3. There were a total of 178 intimate partner murders in California in 2002. In 79 percent of these murders (141 of 178), the victim was a current or former wife or girlfriend of the perpetrator. Seven of the 178 murders involved homosexual relationships in which the gender of the victim/perpetrator was not identified. Thus, the percentage of female victims of intimate partner homicide in 2002 may be slightly higher depending on the gender of these victims. See *Willful Homicide Crimes, 2002, County by Victim to Offender Relationship*, CALIFORNIA DEPARTMENT OF JUSTICE, CRIMINAL JUSTICE STATISTICS CENTER, (on file with author).

4. See also, Hemenway, D., Shinoda-Tagawa, T. & Miller, M., *Firearm availability and female homicide victimization rates among 25 populous high-income countries*, JAMWA (2002), 57:100-104 (while the United States accounts for 32% of the total female population among the 25 highest income nations, it accounts for 70% of all female homicide victims in these nations).

5. According to California Department of Justice Statistics, the following numbers of women were killed each year by an intimate partner from 2000 to 2003: 2000 – 104 women; 2001 – 130 women; 2002 – 128 women; 2003 – 134 women. See *Willful Homicide Crimes, 2000, Precipitating Event: Domestic Violence, County by Victim to Offender Relationship; Willful Homicide Crimes, 2001, Precipitating Event: Domestic Violence, County by Victim to Offender Relationship; Willful Homicide Crimes, 2002, Precipitating Event: Domestic Violence, County by Victim to Offender Relationship; Willful Homicide Crimes, 2003, Precipitating Event: Domestic Violence, County by Victim's Relationship to Offender*; CALIFORNIA DEPARTMENT OF JUSTICE, CRIMINAL JUSTICE STATISTICS CENTER, (on file with author).

6. *Violence in the Family: Report of the American Psychological Association Presidential Task Force on Violence in the Family*, AMERICAN PSYCHOLOGICAL ASSOCIATION (1996).

7. The issues covered in this volume of the report are limited to domestic violence and domestic violence homicide cases involving a female victim and a male perpetrator. Issues

concerning domestic violence and domestic violence homicide among lesbian, bi-sexual and transgendered women will be covered in future volumes of the Murder at Home report.

8. We conducted a Northern California Roundtable Discussion and a Central California Roundtable Discussion. The Northern California Roundtable Discussion was attended by fifteen (15) professionals who work in the domestic violence field. These professionals represented a total of nine (9) counties in Northern California. The Central California Roundtable Discussion was attended by nine (9) professionals who work in the domestic violence field. These professionals represented a total of nine (9) counties in Central California.