



# MURDER AT HOME

AN EXAMINATION OF LEGAL AND COMMUNITY RESPONSES  
TO INTIMATE FEMICIDE IN CALIFORNIA



VOLUME ONE  
EXECUTIVE SUMMARY

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*The Murder at Home report is dedicated to Abby, Philip and Laura, and to everyone who has lost a loved one to domestic violence.*

The California Women's Law Center works to secure justice for women and girls by ensuring that life opportunities for women and girls are free from unjust social, economic and political constraints.

This executive summary is intended to provide background information on California and federal law. Receiving and/or reading this summary does not make you a client of the California Women's Law Center. It is not intended to be, nor should it be relied upon as, legal advice.

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## EXECUTIVE SUMMARY

Women in California are more likely to be killed by their intimate partners than by strangers.<sup>1</sup> Indeed, although women accounted for only 19 percent of all homicide victims in 2002,<sup>2</sup> they constituted almost 80 percent of all intimate partner homicide victims that year.<sup>3</sup> 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.<sup>4</sup> 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.

### THE MURDER AT HOME PROJECT

The Murder at Home Project was established in 1999, in memory of Nina Clare Leibman who was brutally murdered by her husband in 1995 on the night that he was supposed to move out of the family home pending their divorce. 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 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 REPORT – SCOPE AND METHODOLOGY

*Murder at Home: An Examination of Legal and Community Responses to Intimate Partner Femicide in California* ("Murder at Home Report") is



*Nina Claire Leibman*

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Women in California are more likely to be killed by their intimate partners than by strangers.

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a comprehensive assessment of how different systems work together, and separately, to address domestic violence and domestic violence murder in our state.<sup>5</sup> The first volume of the report focuses on law enforcement and probation department responses to domestic violence, as well as inter-agency efforts to engage in post-homicide data collection and domestic violence death reviews. The first volume also includes the results from our survey of 100 cases in which women were murdered by their male intimate partners (“100-Case Survey”).<sup>6</sup>

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 discussions<sup>7</sup> conducted with over 100 professionals throughout the state who work in the domestic violence field.<sup>8</sup>

This executive summary highlights some of the findings from our research and interviews, and includes our policy recommendations for improving current responses to domestic violence in each of the areas addressed in the first volume of the Murder at Home Report. For a complete copy of the report, please contact our office or visit our web site at [www.cwlc.org](http://www.cwlc.org).

## LAW ENFORCEMENT RESPONSE TO DOMESTIC VIOLENCE

Law enforcement officers are the “gatekeepers” of the criminal justice system for domestic violence victims and their abusers.<sup>9</sup> Because law enforcement agencies have primary responsibility for enforcing criminal domestic violence laws, law enforcement officers are often the first to intervene in domestic violence, and are the first contact that a victim or perpetrator has with the criminal justice system.<sup>10</sup> In fact, California law enforcement agencies come into contact with more domestic violence victims and batterers than any other government agency or service provider in the state.<sup>11</sup>

### HOW FAR HAVE WE COME?

Until the 1970s, most law enforcement officers viewed domestic violence calls as “social work,” rather than real “police work,” and legal limitations, such as warrant requirements for misdemeanor arrests, made it difficult for officers to take appropriate action to address domestic violence, even when they felt it was necessary to do so.<sup>12</sup> Starting in the 1980s, major reforms were made in California to ensure that law enforcement officers treat domestic violence as serious criminal conduct. These reforms impose specific duties on law enforcement agencies and officers who respond to domestic violence complaints. These include, but are not limited to, the following:

#### OFFICER TRAINING

Law enforcement officers must complete eight hours of domestic violence training covering specified subjects as part of their basic entry-level course requirement.<sup>13</sup> Officers below the rank of supervisor who normally respond to domestic violence calls are required to complete two hours of additional instruction on domestic violence every two years.<sup>14</sup>

#### WRITTEN POLICIES AND PROTOCOLS

Every law enforcement agency in the state is required to adopt and implement written policies and protocols governing officer and dispatcher response to domestic violence.<sup>15</sup>

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#### DATA COLLECTION AND RECORD KEEPING

Law enforcement agencies are required to maintain complete and accurate records of all criminal and civil domestic violence protective orders issued within their jurisdiction.<sup>16</sup> They must also record all domestic violence-related calls for assistance that they receive.<sup>17</sup>

#### WRITTEN NOTICE TO VICTIMS

Officers must furnish written notice to victims of specified information at the scene of a domestic violence incident, including notice that the abusive party may be released at any time after being arrested or detained and notice of the victim’s right to seek a restraining order.<sup>18</sup>

#### VICTIMS OF DOMESTIC VIOLENCE CARD

Officers must provide domestic violence victims with a “Victims of Domestic Violence Card” that includes specified information, including the names and phone numbers of local hotlines and domestic violence shelters.<sup>19</sup>

#### EMERGENCY ASSISTANCE

Officers must provide emergency assistance to victims of domestic violence when needed (e.g., securing medical care, providing “standbys” for victims who need to leave or remove property from a residence).<sup>20</sup>

#### ASSISTANCE WITH CRIMINAL OPTIONS

Officers are required to assist victims in pursuing criminal action against their abuser. Officers are required to provide one free copy of a domestic violence incident report face sheet(s) and domestic violence incident report to the victim or the victim’s representative, if the victim is deceased.<sup>21</sup>

#### INVESTIGATING AND DOCUMENTING DOMESTIC VIOLENCE

Officers are required to complete an incident report whenever they respond to a call involving domestic violence.<sup>22</sup> Agencies must use incident report forms that allow officers to collect specified information about a domestic violence incident.<sup>23</sup>

#### MAKING ARRESTS

Law enforcement agencies must adopt written policies that encourage the arrest of domestic violence offenders.<sup>24</sup> Law enforcement officers are required to make an arrest when they have probable cause to believe that an offender has violated a domestic violence restraining order.<sup>25</sup> Law enforcement agencies are also required to adopt policies that discourage dual arrests in domestic violence cases.<sup>26</sup> To this end, state law requires law enforcement to

make reasonable efforts to determine the “dominant aggressor” in a domestic violence incident.<sup>27</sup>

#### ISSUING EMERGENCY PROTECTIVE ORDERS (“EPOs”)

State law authorizes law enforcement to request and issue EPOs in domestic violence cases.<sup>28</sup> State law also requires law enforcement officers to use every reasonable means to enforce EPOs.<sup>29</sup>

#### REMOVING AND STORING FIREARMS

If a domestic violence incident involves a threat to human life or physical assault, officers are required to take temporary custody of any firearms or other deadly weapons found in plain sight or as the result of a lawful search.<sup>30</sup>

#### DOMESTIC VIOLENCE UNITS AND RESPONSE TEAMS

While not required by law, most agencies have established specialized units within their departments dedicated to responding to and investigating domestic violence. Law enforcement has collaborated with local advocates to establish Domestic Violence Response Teams (DVRTs, also known as DARTs).<sup>31</sup>

## WHERE ARE WE NOW?

We conducted interviews throughout the state with law enforcement officers, victim advocates and other professionals who work in the domestic violence field in order to assess current problems and successes associated with law enforcement responses to domestic violence. Included below are some of the findings from our interviews and discussions on this issue.

#### Officer Training on Domestic Violence

- Most officers engaged in some training on domestic violence in addition to their initial academy training on this issue. Only a few of the officers, however, reported receiving regular, ongoing training and education on domestic violence issues.
- Advocates reported that law enforcement officials are resistant to having advocates conduct training on domestic violence issues for officers in their departments.

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California has both pro-arrest and mandatory arrest laws for domestic violence, depending on the nature of the domestic violence incident.

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### Responding to and Investigating Domestic Violence Incidents

- Most officers felt that having a Domestic Violence Unit significantly improved an agency's response to, and investigation of, domestic violence crimes.
- Both officers and advocates touted the benefits of instituting local DVRTs. However, advocates reported concerns that officers are minimizing the seriousness of domestic violence incidents in order to avoid having to call an advocate out to the scene.
- Advocates in rural communities complained of long response times to domestic violence incidents due to the insufficient number of officers in local law enforcement agencies.
- Advocates reported that law enforcement does not always ensure the safe separation of parties when responding to a domestic violence incident.
- Advocates noted a significant lack of bilingual law enforcement officers. This was true even for common foreign languages, such as Spanish.
- Advocates expressed concerns that officers are providing misinformation to victims on how to obtain and enforce EPOs and that officers often do not explain the availability of EPOs and other restraining orders to victims.
- Advocates reported that law enforcement does not always take a report in domestic violence cases. Advocates also reported numerous problems faced by victims in trying to obtain a free copy of their incident reports.

### Arrest Policies and Practices

- Most agencies surveyed only require or encourage an arrest if there are visible injuries to the victim (i.e., cases of felony domestic violence).
- Officers admitted experiencing difficulties in determining the dominant aggressor when responding to domestic violence incidents.
- Advocates noted that inappropriate dual arrests, wrongful arrests of victims and complete failures to arrest despite having cause for doing so are problems that still persist with regard to law enforcement's response to domestic violence.

### Removal of Firearms

- Officers and advocates agreed that state laws and local policies must be strengthened to provide courts and law enforcement officers with greater authority to remove firearms from domestic violence perpetrators subject to restraining orders and other firearms restrictions, and to hold these

perpetrators accountable when they fail to surrender firearms in their possession.<sup>32</sup>

#### Challenges and Frustrations Identified by Officers in Responding to Domestic Violence

- Most officers felt that uncooperative victims and victims who repeatedly return to their abusers after law enforcement intervenes pose the biggest challenge to their ability to effectively respond to domestic violence cases.
- Lack of funding was a primary reason given by officers for why their agencies were unable to make or maintain important reforms such as establishing a Domestic Violence Unit or a DVRT.
- Several supervising officers that we interviewed expressed frustration with their inability to completely regulate and ensure that individual officers are always making appropriate responses in domestic violence cases.

#### Successes and Innovations in Preventing and Responding to Domestic Violence

- Officers attributed the success of improved investigation and evidence collection techniques to an overall increase in the number of criminal domestic violence filings in their communities.
- Officers believed that statewide mandates create a level of consistency among law enforcement responses to domestic violence and encourage agencies to institute policies that surpass statewide requirements.
- Local successes and innovations were primarily attributed to the efforts and commitment of strong leaders who made domestic violence a priority. Agencies seemed to work best when agency-wide commitments were also instituted among other local criminal justice and community agencies.

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Officers and advocates agreed that law enforcement still experiences significant problems in determining the dominant aggressor and making appropriate arrest decisions.

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## WHERE DO WE GO FROM HERE?

The following are some of the policy recommendations for improving law enforcement response to domestic violence that are included in our full report.

- **Law enforcement agencies should ensure that all supervisory and patrol officers who have primary responsibility for overseeing/responding to domestic violence cases have a basic level of training on domestic violence and response protocols.** Agencies should require additional basic training and continuing education for supervisory and patrol officers who are primarily responsible for overseeing

or handling domestic violence cases. Training should include issues that may be particularly problematic for the agency's officers, such as instruction on how to determine the "dominant aggressor."

- **Law enforcement agencies should conduct regular reviews of their policies and protocols for responding to domestic violence.** Agencies should regularly assess their existing policies to ensure that they provide adequate guidance to officers on all aspects of domestic violence response and investigation and conform to existing model law enforcement policies in this area. Reviews of an agency's policies and protocols should be conducted with input from officers who are primarily responsible for responding to domestic violence, prosecutors and local victim advocates.

- **Law enforcement agencies should establish, and regularly assess the effectiveness of, inter-agency response teams aimed at improving officer response to domestic violence and providing immediate and ongoing support and services for victims.** Agencies without response teams should explore ways to establish formal or informal partnerships with local advocates and other agencies to create such teams. Agencies that currently have these response teams should conduct regular assessments of the effectiveness of their team's practices.

- **Law enforcement agencies should establish Domestic Violence Units or, at a minimum, designate specific officers to respond to and/or investigate domestic violence cases.** Agency officials should consider at least designating specific officers to be primarily responsible for responding to and/or investigating domestic violence cases. All officers in Domestic Violence Units and all specially designated officers should receive extensive training on domestic violence response and investigation issues.

- **Law enforcement agencies should take affirmative action (e.g., institute policies, protocols and training) to ensure that domestic violence calls involving restraining order violations are treated as high priority calls and are responded to in a manner that best promotes the safety of the protected party.** Officers should take all restraining order violations seriously even if the victim has not suffered any injuries or threats of violence. If the restrained party is no longer at the scene when officers arrive, they should make every reasonable effort to locate and arrest the restrained party.

- **Law enforcement agency policies should require officers to always ensure the safe separation of parties when responding to a domestic violence incident.** This includes ensuring that a victim is kept safe and separate from the abuser when officers escort either the victim or abuser to the family residence to retrieve their belongings. Safe separation requires that law enforcement dispatch at least two officers to the scene of domestic violence or when a victim requests a police escort to a residence that the victim shares with her abuser.

- **Law enforcement agencies should take affirmative steps to ensure that officers are able to communicate with parties who speak foreign languages and/or American Sign Language.** This includes conducting targeted recruitment of bilingual officers and staff, partnering with local advocacy organizations that have interpretation and translation capabilities, and exploring the use of new translation technologies and private translation services.

- **Law enforcement agencies should ensure that all officers who respond to domestic violence have a working knowledge of emergency, civil and criminal protective orders relating**

**to domestic violence.** This includes knowledge about what standards victims have to meet in order to obtain each type of order and the different processes they have to go through.

- **Law enforcement agency policies should require that officers always advise victims of the availability of EPOs when responding to a domestic violence incident.** Victims may not know to ask for an EPO unless an officer advises them that such orders are available. Officers should advise victims of the availability of EPOs even if an incident appears to be non-life threatening.

- **Law enforcement agencies should provide clear standards and guidance for officers on making appropriate arrests in domestic violence cases pursuant to state law and local policies, including providing initial and ongoing training for officers on these issues.** Standards and training for officers should include guidance on determining whether there is probable cause to make a domestic violence arrest, including specifying what factors officers should and should not be taking into consideration when determining whether probable cause exists. Standards and training should also provide guidance for officers in determining the “dominant aggressor.”

- **Law enforcement agencies should provide counseling services and training to officers who are experiencing frustration, stress or “burn out” from having to regularly respond to domestic violence.** Officers who are under stress or who are harboring ill feelings toward victims are less likely to take aggressive and appropriate actions to address domestic violence and may benefit from having additional training on the dynamics of domestic violence that explains why it is normal for victims to recant, refuse to obtain services and repeatedly return to their batterers.

- **Law enforcement agencies should institute internal mechanisms for holding officers accountable when they fail to properly respond to domestic violence.** Law enforcement officials and supervisors should create a system for imposing appropriate discipline on officers who fail to follow established policies and protocols. Officers with repeated serious violations should be restricted from responding to domestic violence cases. Agencies should promptly investigate all citizen complaints about officer responses to domestic violence and take disciplinary action when warranted. Supervisors should conduct random reviews of domestic violence cases to ensure that officers are following prescribed protocols.

- **Law enforcement, victim advocates and other professionals who work in the domestic violence field should advocate for legislative and policy reforms aimed at increasing law enforcement’s authority to confiscate weapons from domestic violence offenders.** Law enforcement officials and associations should support legislation aimed at increasing law enforcement’s and the courts’ authority to confiscate weapons in domestic violence cases and provide policymakers with input aimed at making these reforms as effective as possible.

- **Law enforcement officers, advocates and other professionals in the domestic violence field should work together to ensure that local law enforcement agencies institute strong, agency-wide commitments to addressing domestic violence.** Major improvements in law enforcement response to domestic violence are more likely to be established and sustained on an ongoing basis if an agency has an institutional, rather than an individualized, commitment to addressing domestic violence.

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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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## LAW ENFORCEMENT RESPONSE TO OFFICER-PERPETRATED DOMESTIC VIOLENCE

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>33</sup> Regardless of the actual numbers, the fact that law enforcement officers are perpetrating domestic violence against their intimate partners and family members presents some very serious societal dangers.

### HOW FAR HAVE WE COME?

#### Identifying and Defining the Problem

- In 1991, a study (Johnson) found that 40% of the officers surveyed reported that they had been verbally or physically abusive toward their spouses or children within six months prior to the survey.<sup>34</sup> Another study (Neidig, Russell and Seng) released a year later produced similar results.<sup>35</sup>
- In 1994, the Southwestern Law Enforcement Institute conducted a nationwide survey of police agencies which revealed that 28% of the departments experienced an increase in officer-involved domestic violence within the prior two years, and that 45% of the departments had no specific policy in place for dealing with officer-involved domestic violence.<sup>36</sup>
- In 1996, 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 domestic violence from owning or possessing a firearm. The Lautenberg Amendment applies 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.<sup>37</sup>
- Research on the implementation of the Lautenberg Amendment reveals that very few law enforcement officers have actually been affected by federal gun restrictions.<sup>38</sup> Advocates view these low numbers as evidence that departments are enabling officers to evade federal gun restrictions.<sup>39</sup>
- In 1998, the Federal Bureau of Investigation ("FBI") convened a group of law enforcement officers, attorneys, psychologists, victim advocates, and

chaplains to share their views and research on officer-perpetrated domestic violence.<sup>40</sup>

- In 1999, the International Association of Chiefs of Police (“IACP”) released a model policy for addressing domestic violence by law enforcement officers.<sup>41</sup> A recent study revealed that only 29% of law enforcement agencies surveyed had specific policies in place for addressing officer-involved domestic violence.<sup>42</sup> Only 2 agencies had comprehensive policies that were comparable to the IACP’s model policy.<sup>43</sup>

### California’s Response

- 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 and blatant inaction on the part of the LAPD to punish these offenders.<sup>44</sup>
- 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 into the LAPD’s internal affairs investigations of officer-involved domestic violence completed between 1990 and 1997.<sup>45</sup> The investigation revealed a consistent failure by the LAPD to effectively address the problem of domestic violence by its officers.<sup>46</sup>
- Two years after the LAPD scandal, a highly publicized homicide led to public inquiries into problems of officer-perpetrated domestic violence in Northern California.<sup>47</sup> In particular, the murder revealed that local law enforcement agencies failed to review civil and family court records when conducting background checks for new recruits.<sup>48</sup>

## WHERE ARE WE NOW?

We interviewed representatives from thirteen law enforcement departments in different California counties<sup>49</sup> to assess current departmental policies and practices that address police-perpetrated domestic violence. Some of the key findings from these interviews are described below.

### Departmental Attitudes

- A majority of interviewees were extremely reluctant to provide any information about their policies and procedures for addressing officer-perpetrated domestic violence. One interviewee claimed that it was against department policy to release this information to the public.

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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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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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- 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.
- 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 their investigation and prosecution of police officer domestic violence.

#### 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 responding to officer-perpetrated domestic violence.

- Eleven (11) of the 13 departments surveyed had no specific written policies or protocols for conducting criminal investigations of officer-perpetrated domestic violence.
- Most interviewees were unaware of the model policies promulgated by the International Association of Chiefs of Police for responding to officer-perpetrated domestic violence.

#### Investigation and Accountability

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

- Most departments surveyed wait until the criminal case against the officer is fully adjudicated before starting their administrative investigation.
- If the officer is criminally convicted of domestic violence, a majority of departments will terminate the officer. Some departments, however, reported considering factors such as the officer’s history of abuse and the extent of the victim’s injuries in deciding whether to terminate the officer.
- 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 internal departmental policies.

- Nearly half of the departments surveyed did not support conducting investigations into past allegations of domestic violence by officers.

#### Outreach, Accessibility and Prevention Efforts

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>50</sup> Departments seem to adopt a very different perspective, however, when it comes to complaints of officer-perpetrated domestic violence:

- One interviewee attributed his department's low number of complaints of police officer domestic violence to the fact that law enforcement officers are generally held to a higher standard of moral conduct than others in the community.
- One interviewee stated that the fact that his department has received complaints of police officer domestic violence involving only 0.5 percent of its officers reflects the good record that the department's officers have regarding domestic violence when 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.

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:

- 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 stated that they encourage and, in some cases recommend, officers to utilize employee assistance programs and counseling services if they are having problems with their spouses or significant others.

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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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## WHERE DO WE GO FROM HERE?

The following are some of the policy recommendations for improving law enforcement response to officer-perpetrated domestic violence that are included in our full report.

- **Law enforcement departments should develop and strictly enforce comprehensive written protocols for preventing, identifying and responding to officer-perpetrated domestic violence.** Departments should review model policies, such as those promulgated by the International Association of Chiefs of Police, when developing their policies.

- **Law enforcement leaders should institutionalize a “zero tolerance” policy within their departments for domestic violence by officers.** The effective enforcement of domestic violence response protocols cannot be achieved in a “police culture” that promotes harmful attitudes and loyalties among officers. Law enforcement leaders have the ability to change core attitudes within their departments that promote and protect acts of domestic violence by officers.

- **Criminal investigations into complaints of officer-perpetrated domestic violence should be separate from and independent of a departments’ own administrative investigations into such complaints.** Criminal investigations of officers accused of domestic violence should be immediately referred to and conducted by district attorney investigators in the jurisdiction 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.** Background checks on all potential employees should 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”). Departments should also utilize psychological screening tools that focus on identifying violent and abusive behaviors or tendencies among applicants.

- **Departments must conduct regular outreach and educational activities related to domestic violence for the intimate partners and families of officers.** 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 advising domestic violence victims of the department’s policies for investigating and resolving a domestic violence complaint and available department and/or community support services. Services and outreach to intimate partners and family members should be confidential.

- **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. Supervisors who fail to adhere to established policies should be disciplined.

- **Departments should provide counseling and support services to officers and their families aimed at reducing work-related stress and addressing interpersonal conflicts.** 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.** 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 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.** 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, departments should utilize existing statewide criminal justice databases and internal tracking systems to monitor all domestic violence-related incidents involving their officers. Departments should be required to make annual reports to the state regarding the number, nature and disposition of domestic violence complaints against officers.

- **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 to accessing resources and legal protections. 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.

- **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 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.

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Improvements in law enforcement response to domestic violence and accountability for derelict officers are sometimes best achieved through litigation.

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## LEGAL LIABILITY OF LAW ENFORCEMENT

Systemic reforms are often not enough to ensure that law enforcement officers are adequately and effectively responding to domestic violence in the field. Sometimes, improvements in law enforcement response and accountability for derelict law enforcement officers may be best achieved through litigation.

### HOW FAR HAVE WE COME?

Although laws and court decisions establishing broad government immunity for certain police misconduct have seriously limited the type of lawsuit that battered women and their survivors may bring against law enforcement, many viable federal and state claims still exist for remedying inadequate police responses to domestic violence.

### WHERE ARE WE NOW?

Federal constitutional claims provide a potential basis for liability against law enforcement, even after the United States Supreme Court's decisions in *DeShaney v. Winnebago County Department of Social Services*<sup>51</sup> and *Towne of Castle Rock v. Gonzales*<sup>52</sup> – two watershed cases which established that battered women do not have a constitutional due process right to general police protection from domestic violence under the 14<sup>th</sup> Amendment of the United States Constitution (“14<sup>th</sup> Amendment”).

There are exceptions to *DeShaney*, for example, that allow parties to bring due process claims against law enforcement in cases where officers actively contributed to a victim's risk of domestic violence (“state-created danger exception”) or acted with deliberate indifference to the rights of battered women by failing to provide adequate training to officers who regularly respond to domestic violence incidents (“deliberate indifference exception”).

Moreover, *DeShaney* and *Castle Rock* did not foreclose the possibility of bringing equal protection claims against law enforcement under the 14th Amendment. Equal protection claims are a viable remedy for addressing law enforcement's discriminatory policies and practices for responding to domestic violence crimes and domestic violence victims. If successful, these claims can send a strong message to law enforcement agencies throughout the country that domestic violence crimes must be treated as seriously as other violent and life-threatening crimes.

State tort law claims<sup>53</sup> and state constitutional claims are also unaffected by *DeShaney* and *Castle Rock*. As a general matter, state law grants broad immunity to law enforcement agencies and officers from state tort claims. However, state tort law supports claims against law enforcement agencies and officers who fail to discharge duties that are mandated by state law when responding to domestic violence. State tort law also supports claims against law enforcement agencies that fail to adequately address domestic violence perpetrated by their own officers.

Although often overlooked as a basis for relief, a party can also bring an equal protection claim against law enforcement under the California Constitution. In fact, the California Constitution affords equal protection claims based on gender an even higher level of protection than federal equal protection law by requiring that government agencies have compelling and necessary reasons for discriminating against one gender. Battered women and their survivors should consider all possible federal and state claims against law enforcement.

## WHERE DO WE GO FROM HERE?

- **Civil rights attorneys, advocates and victims must work together to bring cases that will set strong precedents for holding law enforcement liable for inadequately responding to incidents of domestic violence.** In a post-*DeShaney* and *Castle Rock* universe, the most viable theories for asserting a federal constitutional due process claim are to argue that law enforcement's conduct falls within the "state-created danger" or "deliberate indifference" exception to *DeShaney*. Equal protection claims are also highly

recommended as these claims were not impacted by *DeShaney*. However, it is important to remember that, in some cases, law enforcement may be immune from liability unless the party bringing a federal claim can show that the officer violated a clearly established constitutional right. Increased litigation of both due process and equal protection claims will help strengthen victims' constitutional remedies by clarifying victims' constitutional and statutory rights under federal law and reducing the likelihood that law enforcement will be immune from liability.

Plaintiffs in California should also remember to look to state law remedies. Unlike federal civil remedies, state tort law allows a party to recover civilly for purely negligent conduct. However, the party must first meet the burden of showing that a "special relationship" gave rise to a duty of protection on the part of law enforcement, which has been challenging in the domestic violence context. Claims of negligent hiring, retention and/or supervision should be brought against law enforcement agencies who fail to adequately respond to domestic violence perpetrated by their own officers. Indeed, as this is an area of liability that has not been widely tested, advocates and attorneys should try to litigate these issues further when an appropriate case arises. State court decisions also lend support for bringing claims of negligence per se against law enforcement agencies that fail to discharge mandatory duties under state law, particularly in the cases of teen dating violence. Litigants should also remember to include state constitutional claims, when appropriate.

- **Advocates should collect statistical and anecdotal data that can help support litigation aimed at improving law enforcement response to domestic violence.** Now that law enforcement is more knowledgeable about, and responsive to, domestic violence, it is likely that discrimination against domestic violence victims will take more subtle forms than in the past. It is important, therefore, that advocates work with civil rights attorneys to document, on a local level, evidence of a particular department's chronic failure to respond adequately to domestic violence calls and/or repeated non-compliance with laws designed to protect domestic violence victims (e.g., mandatory arrest laws). This information may be useful in assisting attorneys and litigants with their claims.

- **Policymakers and advocates should work together to strengthen and expand state and federal laws in order to ensure that domestic violence victims and their survivors have effective statutory bases for holding law enforcement legally accountable for how it responds to domestic violence.** Government immunities and the strong reluctance of courts to interpret the law in a way that exposes governmental agencies to civil liability has made it extremely difficult for parties to bring successful claims against law enforcement, even in cases involving egregious and shocking conduct by officers. However, parties do not have to be constrained to working within the law as it currently exists. Advocates and policymakers can push for legislative and other reforms aimed at creating more clear and effective civil remedies for parties who have been injured as a result of faulty law enforcement responses to domestic violence.

- **State and local law enforcement officials should be knowledgeable about their agency's and officers' potential liability for failing to adequately respond to domestic violence.** Law enforcement officials who are aware of their potential for civil liability are more likely to take steps to ensure that their agency is effectively responding to domestic violence complaints. However, officials should not use their knowledge of liability issues to identify "bare minimum" responses to domestic violence. Rather, their goal should be to ensure that all responses are appropriate and effective, and are well beyond the minimum threshold required to establish civil liability.

## PROBATION SUPERVISION OF DOMESTIC VIOLENCE OFFENDERS

Domestic violence offenders are being arrested, prosecuted and convicted in greater numbers than ever before. A majority of offenders who are convicted of domestic violence receive some form of probation. In fact, California Department of Justice statistics reveal that almost 90 percent of offenders convicted of felony domestic violence in 2000 were placed on probation, whether their sentence was limited to probation only or included probation coupled with some jail time.<sup>54</sup> As the number of domestic violence offenders on probation has grown, so has the responsibility of California county probation departments<sup>55</sup> to ensure that they are effectively monitoring this particular group of offenders.

### HOW FAR HAVE WE COME?

- In 1994, the California legislature enacted Penal Code Section 1203.097 which sets forth minimum sentencing requirements for domestic violence offenders who are placed on probation.<sup>56,57</sup>
- In 1995, the probation standards enumerated in Penal Code Section 1203.097 grew in importance when "diversion"<sup>58</sup> was eliminated as a method for dealing with domestic violence offenders.
- Since the enactment of Section 1203.097, there have been several legislative attempts to mandate domestic violence training for probation officers, all of which were unsuccessful.<sup>59</sup>
- In the late 1990s, the California Department of Health Services awarded a grant to the California Institute on Human Services of Sonoma State University to establish the Probation Project. The purpose of the Probation Project was to decrease the incidence of domestic violence in California by assisting probation departments in institutionalizing batterer program approval processes, facilitating collaboration between probation departments and the domestic violence community, and increasing funding for domestic violence prevention activities.<sup>60</sup>

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In our 100-Case Survey, nearly 70% of the perpetrators who were on probation or parole at the time of the murder were on probation/parole for committing domestic violence against the woman they ultimately killed.

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Many departments cited budget cuts and unmanageable caseloads as the primary reasons why they are not able to take a more active and comprehensive approach to monitoring domestic violence offenders.

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## WHERE ARE WE NOW?

Twenty (20) county probation departments were surveyed in order to assess current practices within California's probation departments in monitoring domestic violence offenders and gain departmental feedback on how to improve these practices to successfully protect victims and hold offenders accountable. Some of the key findings from these interviews are included below.

### Specialized Domestic Violence Units:

- Most of the probation departments surveyed (12 out of 20) have specialized domestic violence units staffed by specially trained probation officers. Departments without a formalized unit typically assign all domestic violence cases to the same officer or officers.

### Officer Caseloads:

- Only 3 of the departments had significantly reduced caseloads for officers monitoring domestic violence offenders (e.g., 50 cases per officer), particularly those monitoring "high-risk"<sup>61</sup> offenders. Moderate caseloads consist of 150 offenders per officer. Larger caseloads varied from 200 to 450 offenders per officer.

### Offender Monitoring and Check-ins:

- The frequency with which probation officers are able to see offenders is closely related to the size of the officer's caseload and the risk of danger posed by the offender. On average, most county probation officers see their domestic violence probationers once a month, with occasional field visits. Only 2 departments reported conducting surprise visits on a regular basis.

### Probation Violations:

- For "technical" violations, such as missing a batterer's treatment class or a check-in with the parole officer, most departments (14 out of 20) will give the offender another opportunity to correct the violation before sending the offender to court to explain the reasons for the technical violation.
- All departments reported taking a tough stance on serious violations of probation (e.g., threats or violence against the victim, being terminated from a batterer's treatment program) or new criminal conduct by the offender. In such cases, officers will either send the offender back to court for the violation or recommend to the judge that probation be revoked and jail or prison time imposed.

#### Victim Contact and Check-ins:

- Most departments surveyed (14 out of 20) only contact victims at the start of probation in order to evaluate the offender, notify victims of the status and terms of probation, and/or provide victims with a list of local resources. Some departments only engage in such communication if the victim is still in a relationship with the offender.

#### Data Collection and Analysis:

- None of the departments surveyed tracked statistics or information regarding their domestic violence caseload in order to assess their programs and areas for improvement.

#### Officer Training:

- A majority of probation departments repeatedly emphasized that it is critical for officers, attorneys and judges to receive domestic violence training in order to better understand and handle the unique aspects of domestic violence cases and offenders.

#### Unmanageable Caseloads:

- Many departments highlighted unmanageably large caseloads as a reason why probation officers did not have adequate resources or time to implement the intense supervision that domestic violence cases require.

#### Victim Non-cooperation and Recanting:

- Many departments expressed frustration with victims' reluctance to cooperate with the penal system and to permanently separate themselves from their abusers. Many departments suggested mandatory counseling for both the offender and the victim in such cases.

#### Judicial Leniency:

- A significant number of departments complained that judges were too lenient with domestic violence offenders and, in particular, failed to hold repeat offenders accountable for probation violations.

#### Batterers' Treatment Programs:<sup>62</sup>

- Many departments expressed dissatisfaction with current batterers' treatment programs and their failure to hold offenders accountable for their abusive behavior.

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The majority of probation departments surveyed do not conduct regular check-ins with the victims of the domestic violence perpetrators they supervise.

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## WHERE DO WE GO FROM HERE?<sup>63</sup>

The following are some of the policy recommendations for improving probation department response to domestic violence that are included in our full report.

- **Counties should establish specialized units within their probation departments dedicated to monitoring domestic violence offenders.** Given the significant fiscal constraints faced by many departments, this recommendation includes providing county probation departments with the financial and technical support they need to establish these specialized units. At a minimum, probation departments should routinely assign all domestic violence offenders to the same officer(s).

- **Probation officers responsible for supervising domestic violence offenders should be required to complete substantial training and continuing education on domestic violence.** Officer training should be developed and conducted by community professionals who specialize in assisting domestic violence victims or offenders. Training should include instruction on cycles and patterns of abuse, the tactics and psychology of batterers, and the reasons why victims often recant or refuse to cooperate with authorities.

- **Probation officers should conduct pre- and post-trial lethality/risk assessments for offenders, with regular follow-up assessments of offenders' potential risk of danger to victims and other family members during the probationary period.** Lethality/risk assessments should be comprehensive and include confidential interviews with the victim and other family members who have knowledge about the offender's past history of violence and abuse. Departments should review available models and adopt lethality/risk assessment protocols and forms for probation officers.<sup>64</sup> In addition, departments should provide trainings for officers in how to conduct lethality/risk assessments.

- **All domestic violence probationers should be subject to intensive monitoring and supervision.** Intense supervision is crucial given the constant risk of harm to the victim while her abuser is "on the streets" and the ability of many "high risk" batterers to present themselves to courts and officers as amiable, mild-mannered and respectful. The level of intensity of supervision may vary, or be modified over the probationary period. However, even "low risk" offenders should be subject to frequent, regular check-ins and visits.

- **Probation departments should reduce caseloads to the extent practicable to ensure that officers are able to effectively supervise domestic violence offenders.** Probation departments must be provided with the financial and technical support they need to reduce officer caseloads.

- **Probation departments should conduct regular check-ins with victims of domestic violence offenders.** The victim is the best source of information about the offender's conduct while on probation. Moreover, it is important that officers remain accessible to victims throughout the probationary period in the event an offender harasses, threatens or commits further acts of violence against his victim. Probation officers should conduct regular check-ins with victims regardless of whether the victim and the offender are still in a relationship. Meetings with a victim should be confidential and conducted at a separate time than the officer's meetings with the offender. The officer should keep the victim apprised of any developments in the offender's case or probationary status.

- **Probation departments should establish and implement protocols for monitoring domestic violence offenders.** Protocols should institutionalize probation officer duties and responsibilities pursuant to Penal Code §1203.097, emphasize victim safety and offender accountability, and incorporate our recommendations listed above for supervising domestic violence offenders and maintaining contact with victims. Protocols should be developed with input and assistance from judges, prosecutors, probation officers who supervise domestic violence offenders, victim advocates and other relevant professionals.

- **Probation officers and judges should enforce a “zero tolerance” policy for probation violations committed by domestic violence offenders.** Domestic violence offenders must be held strictly accountable for complying with all conditions and terms of their probation. To this end, probation officers should recommend, and judges should impose, meaningful consequences for all probation violations even if the victim does not want the offender to be arrested or suffer consequences for his behavior.

- **Probation departments should collect and analyze data on domestic violence probationers.** Collecting and analyzing data on domestic violence probationers can help departments assess their effectiveness in supervising these offenders and provide advocates with vital information on trends and potential risk factors concerning batterers on probation.

- **Probation departments should foster interagency partnerships and collaborations aimed at preventing domestic violence and domestic violence homicide.** Officers who monitor domestic violence offenders should be strongly encouraged to participate in coalitions and working groups focused on domestic violence and domestic violence homicide prevention. In addition, departments should take the lead in developing networks with other county probation departments, as well as with local government agencies and community-based organizations that play a role in responding to domestic violence. Such collaborations will assist departments in continuing to evaluate how they can improve their oversight and monitoring of domestic violence offenders.

## POST-HOMICIDE DATA COLLECTION AND DEATH REVIEW

Understanding the circumstances of past domestic violence deaths can save the lives of women currently at risk of intimate partner murder. A meaningful analysis of individual murders can uncover systemic gaps in services and legal protections, and provide government agencies and practitioners with valuable strategies for increasing victim safety and ultimately reducing the incidence of domestic violence murder in their communities.<sup>65</sup> The two primary ways that government agencies and the domestic violence community attempt to analyze and learn from domestic violence murders is through data collection and the establishment of local death review teams.

### DATA COLLECTION

Data sets can be used to identify common trends and circumstances among intimate murders, such as the extent to which prior cases have involved a history of violence in the relationship, attempts by the victim to seek help from legal and community agencies for abuse, or evidence of suicidal tendencies and other mental health issues among victims and perpetrators. Based on this information, practitioners can assess whether there are certain risk factors for domestic violence homicide and can advocate for legislative and policy reforms that improve system responses and save women's lives.<sup>66</sup>

### HOW FAR HAVE WE COME?

#### **National Data Collection**

- The U.S. Department of Justice (USDOJ) has collected national data on crimes through its Uniform Crime Reporting Program (UCRP) since 1930.<sup>67</sup> The USDOJ has collected and analyzed data on intimate partner murder, specifically, since 1976.<sup>68</sup>

- In 1973, the National Crime Victimization Survey (NCVS) was established to supplement federal crime data.<sup>69</sup> While the NCVS's interview-based method allows for the collection of detailed information on intimate partner violence, it does not allow for the collection of data on homicide crimes since the victims in such cases cannot be interviewed.
- In the mid-1980s the federal government changed the UCRP from a "summary-based" to an "incident-based"<sup>70</sup> reporting system called the National Incident-Based Reporting System (NIBRS). The incident-based reporting system allows agencies to collect more detailed information on crimes handled by state and local law enforcement agencies.<sup>71</sup>
- In 1994, the Violence Against Women Act (VAWA) required the U.S. Attorney General to investigate how federal and state agencies were collecting data on domestic violence crimes, including domestic violence homicide, and make recommendations to Congress for improving and centralizing data collection efforts.<sup>72</sup>
- In 1996, the USDOJ's Bureau of Justice Statistics (BJS) and National Institute of Justice (NIJ) issued their report entitled, *Domestic and Sexual Violence Data Collection: A Report to Congress Under the Violence Against Women Act*. The report found that definitions of "intimate partner violence" and established data reporting systems differed so widely among states that aggregate data was hard to accurately analyze on a national level.<sup>73</sup> The report further found that many states were slow to follow the federal government's transition from "summary-based" to "incident-based" reporting.<sup>74</sup>
- In the early 1990s, the BJS completed a substantial redesign of the NCVS.<sup>75</sup> One of the primary objectives of the redesign was to enhance the NCVS's capacity to collect meaningful information about the nature and consequences of violence against women, including intimate partner violence.<sup>76</sup>
- The BJS has published numerous reports analyzing federal data on intimate partner violence obtained through FBI crime reports and the NCVS.<sup>77</sup> Federal data has also been used by private organizations to advance policy regarding intimate partner violence.<sup>78</sup>
- In addition to data collection, the federal government, through the NIJ and other federal agencies, also provides grants to private researchers to conduct targeted studies on risk factors and dynamics of intimate homicide that are difficult to assess through hard data alone.<sup>79</sup>

## California Data Collection

- Although the California Department of Justice (CADOJ) has collected crime information from local governments and agencies since 1955, the department did not begin collecting data on intimate partner murder until 1979.<sup>80, 81</sup>

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Data sets can be used to identify risk factors for domestic violence homicide and to support legislative and policy reforms that improve system responses to domestic violence.

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California law authorizes and encourages the coordination of state and local data to create a body of information to prevent domestic violence deaths.

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- Penal Code Section 11163.5 authorizes the CADOJ to: (1) produce an annual report on domestic violence homicides based on state and local data collected, analyzed and interpreted, (2) distribute the report to public officials and county agencies that respond to domestic violence or investigate domestic violence deaths, and (3) develop a state and local database of domestic violence deaths.<sup>82</sup>
- In 1996, the state legislature created a pilot data collection program by designating the San Diego Association of Governments (SANDAG) as a clearinghouse for criminal justice data on domestic violence in San Diego County.<sup>83</sup>

## WHERE ARE WE NOW?

### National Data Collection

- Nationally, many states and local agencies have not yet converted to an incident-based data collection and reporting system that complies with the NIBRS.
- Discrepancies between the FBI and BJS's definition of "intimate partner" for purposes of federal data collection may cause federal statistics on intimate violence and intimate murder to be inconsistent and significantly understated.

### California Data Collection

The range of data collected by state and local agencies is insufficient to allow for a meaningful analysis of intimate partner murder in our state.

- Although some local agencies have converted to incident-based reporting systems, the state has not been able to implement incident-based reporting on a state level due to a lack of funding.
- The collection of comprehensive data on domestic violence homicides authorized by Penal Code Section 11163.5 has not become a reality, likely due to a lack of funding.
- The subtle complexities of intimate partner murder, such as the history of domestic violence, previous criminal activity, and mental health of the perpetrator or victim, are not quantified in state homicide reports nor collected by the CADOJ.<sup>84</sup>

California's data on intimate partner homicide is inaccurate and subject to underreporting

- LACK OF UNIFORM DATA COLLECTION STANDARDS AND ACCOUNTABILITY AMONG LOCAL AGENCIES. Variances in data collection and reporting systems, technologies and resources at the local level, make it difficult to gather uniform and accurate intimate partner murder data on a statewide basis.
- NEED FOR GREATER INTER-AGENCY COLLABORATION AND SPECIALIZED TRAINING ON IDENTIFYING INTIMATE MURDER. Whether a domestic violence murder is included within state data on these murders greatly depends on the training, resources, and priorities of local law enforcement agencies. Murder by strangulation is one type of murder that was repeatedly cited by practitioners as being easily mislabeled by investigators. Practitioners also emphasized the need for better collaboration among coroner's offices and law enforcement investigators.
- LACK OF CONCRETE DATA ON DOMESTIC VIOLENCE-RELATED DEATHS. Another problem that contributes to under-representative data on domestic violence-related deaths is the failure to identify and track deaths that are caused by domestic violence, but are not the result of a domestic violence murder (e.g., battered women's suicides, elderly women who die prematurely due to domestic violence-related health problems or stress, etc.).
- LACK OF CONCRETE DATA ON THE NUMBER OF COLLATERAL VICTIMS OF INTIMATE PARTNER MURDER. In 1 out of every 5 cases surveyed in our 100-Case Survey, a person other than the intended victim was either injured or killed at the time that the murder took place. It is critical to find ways to identify and track these types of domestic violence-related deaths in order to gain a true picture of domestic violence fatalities in our state.

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Statewide data collection efforts have failed to result in reliable and comprehensive information on intimate partner murder.

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## WHERE DO WE GO FROM HERE?

The following are some of the policy recommendations for improving data collection practices that are included in our full report.

- **Local, state and federal definitions of "intimate partner" should be standardized and clearly articulated to advocates, researchers and law enforcement.** Current and former spouses, current and former dating partners and same-sex relationships must be included in the definition of "intimate partner" at all levels of data collection and entry.

- **More state and federal funding should be committed to helping agencies convert to incident-based data collection and reporting systems.** Incident-based reporting tracks more meaningful details and paints a more complete picture of intimate murder. Law enforcement agencies in California and across the nation would like to implement effective incident-based data collection and reporting systems, but lack the funding and resources to do so.

- **Existing incident-based reporting standards should be expanded to include other significant factors relating to intimate partner murder.** Current models of incident-based reporting still fail to capture important data on intimate partner murders (i.e. perpetrator’s prior history of abuse, prior convictions, prior arrests, etc.). Further investigation and research is needed to identify additional relevant factors that could be tracked through incident-based reporting on intimate murder and to determine the feasibility of imposing expanded reporting requirements on local agencies.

- **State funding and resources should be directed toward establishing a separate, statewide data collection and analysis program on domestic violence deaths, as authorized by Penal Code Section 11163.5.** Given the preventable nature of intimate murder, it is vital that state and local agencies engage in a more detailed level of data collection and analysis than that which is currently performed for stranger murder or other violent crime.

- **Law enforcement investigators and coroners should receive specialized training on identifying and documenting data on intimate murder.** Properly determining a person’s cause of death is central to collecting accurate data on intimate murder. As the primary agencies responsible for making these determinations, law enforcement and coroners must have the tools and training needed to effectively investigate and identify cases of intimate murder.

- **State and local agencies should explore ways to identify and collect data on non-homicide, domestic violence-related deaths** (e.g., battered women suicides, collateral deaths and premature deaths due to domestic violence injuries and stress, etc.). Identifying and collecting data on such cases, however, is extremely challenging and would require strong commitments and collaborations among various agencies that respond to domestic violence in the community. For counties with active domestic violence death review teams, analysis and tracking of these cases may be performed within the review team setting.

- **State and local agencies should explore ways to require data collection and reporting on domestic violence from health and social services agencies.** Many public health and social services agencies engage in some level of data collection and documentation on cases involving domestic violence. However, this information is rarely shared among agencies and it is not being tracked or analyzed in any meaningful way on a statewide basis. Further, investigation is needed to identify information that can be tracked by these agencies on a statewide basis and to determine the feasibility of imposing data collection and reporting requirements on these agencies.

## DOMESTIC VIOLENCE DEATH REVIEW

The demand for more detailed data collection and analysis of intimate partner murder led to the establishment of domestic violence death reviews in California and across the nation. Although domestic violence death reviews are performed after an intimate murder has already occurred, the underlying goal of “death review” is to prevent future homicides from occurring and ultimately reduce the incidence of these murders in the community. Two types of domestic violence death reviews have developed in California: government-sponsored death review teams and independent death reviews.

### HOW FAR HAVE WE COME?

#### **Government-Sponsored Domestic Violence Death Reviews Teams**

- Government-sponsored domestic violence death review teams (“DVDRTs”) are typically formed on a county-wide basis and are composed of members from various government and community agencies that play a role in responding to domestic violence in that community.<sup>85, 86</sup>
- The first DVDRTs in the U.S. were established in the early 1990s.<sup>87</sup> The Charan Investigation was the first government-sponsored domestic violence death review in the nation.<sup>88</sup> The investigation was conducted by the San Francisco Commission on the Status of Women in response to the 1990 murder-suicide of Veena Charan and her estranged husband, Joseph Charan.<sup>89</sup>
- A few years later, in October 1994, Santa Clara County established one of the first on-going, multi-agency DVDRTs, which has served as a model for teams across the nation.<sup>90</sup>
- In 1995, California enacted legislation authorizing the establishment of domestic violence death review teams in all California counties.<sup>91</sup> The number of county DVDRTs in California grew with the passage of the 1995 Authorizing Legislation. Currently, there are at least twenty-four (24) counties in California that have on-going, formalized DVDRTs.<sup>92</sup>
- Penal Code Section 11163.3 protects the confidentiality of communications and documents shared within, or produced by, a DVDRT relating to a case review, as well as communications shared between a third party and a DVDRT relating to a case review.<sup>93</sup> Section 11163.3 allows DVDRTs to make

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California law authorizes and encourages the establishment of county domestic violence death review teams.

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Independent reviews were developed largely in response to the belief among victim's advocates that government-sponsored reviews fail to promote open and meaningful evaluations of domestic violence deaths.

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written requests to third party agencies for information relating to a case review, including that which is privileged under state law.<sup>94, 95</sup>

- Penal Code Section 11163.5 authorizes the CADOJ to issue an annual report analyzing state and local data on domestic violence deaths, including the data collected by local DVDRTs.<sup>96</sup> Section 11163.5 also authorizes the CADOJ to establish minimum data collection standards for DVDRTs.<sup>97</sup>
- Penal Code Section 11163.6 was enacted to promote standardized data collection by county death review teams by defining what qualifies as a "domestic violence death" for purposes of conducting local domestic violence death reviews.<sup>98</sup>
- In 2000, the California Attorney General's Office published a statewide protocol for DVDRTs that provides guidance to counties in the following areas: team goals, team membership, case review, confidentiality, data collection and policy recommendation development.<sup>99</sup> DVDRTs are not required to adopt the statewide protocol.<sup>100</sup>
- In 2002, the Attorney General's Office held two regional conferences for California DVDRTs.<sup>101</sup> In addition, the office hopes to produce an on-line newsletter for teams, as well as a team listserv, both of which will better enable teams to share information and resources.<sup>102</sup>

### **Independent Domestic Violence Death Reviews**

- Independent reviews of domestic violence homicides by grassroots advocacy groups began to surface as counties first experimented with DVDRTs in the mid-1990s.<sup>103</sup>
- Independent domestic violence death reviews are conducted by private individuals or grassroots advocacy groups that have no connection to government supervision or funding. The two primary goals of conducting an independent review are: (1) humanizing the victim and (2) exposing the ineffectiveness of local agency responses to domestic violence.<sup>104</sup>
- Independent reviews typically do not have the benefit of open communication and cooperation with government agencies, and tend to involve individualized investigative work, including combing through public records and conducting interviews with the families and friends of the victim and perpetrator.<sup>105</sup>
- Independent reviews were developed largely in response to the belief among victim's advocates that government-sponsored reviews fail to promote open and meaningful evaluations of domestic violence deaths because they are conducted primarily by the very agencies that may have, in fact, contributed to the victim's risk of murder.<sup>106</sup>

## WHERE ARE WE NOW?

CWLC conducted interviews with representatives from ten (10) county DVDRTs and organizations that conduct independent death reviews to gain insight into the current status of domestic violence death review in California. Some of the key findings from these interviews are included below.

### **Government-Sponsored Domestic Violence Death Review Teams**

#### Team Establishment and Membership

- Most teams (9 out of 10) established their DVDRT due to the individualized efforts of government agency or community representatives or in response to community events, such as the establishment of a county domestic violence council or the occurrence of an egregious intimate partner murder. Only one team formed solely due to the 1995 Authorizing Legislation.
- Most DVDRTs teams feel that all relevant agencies are adequately represented on their team and that their team functions well in bringing in new team members and guests, when needed.

#### Team Funding

- Most (7 out of 10) DVDRTs do not have any source of funding to support their work. Rather, team members participate on a volunteer basis as part of, or in addition to, their regular job duties.

#### Case Review Process

- All teams had a written protocol, with the majority of teams (6 out of 10) copying the statewide protocol or another county's protocol.
- All 10 teams use a confidentiality agreement which they have members and guests sign before each meeting.
- A majority of teams (6 out of 10) identify cases by having local agencies flag suspected domestic violence deaths for review by the team.
- Half of the teams (5 out of 10) have a policy of only reviewing "closed cases" in which all the parties have died (i.e., murder-suicides) or all civil and criminal proceedings involving the case are completed, though some teams do not wait until all criminal appeals are exhausted before starting their review.

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Most DVDRTs do not have any source of funding to support their work.

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- Only 3 teams also review non-homicide domestic violence deaths (e.g., victim suicides, blue suicides<sup>107</sup> and domestic violence-related fatal accidents). Four (4) teams are planning to expand the range of domestic violence deaths that they review to include such cases.
- All teams reported that they generally function well in obtaining information for their reviews. However, several (3 out of 10) teams identified difficulties in getting access to shelter information and information from family members of victims and perpetrators.

#### Data Collection and Reporting

- Nine (9) of the 10 teams use a data collection form for gathering and documenting case information. Four (4) teams felt that having standardized data collection forms for DVDRTs would be beneficial. Most teams (8 out of 10) felt that it would be beneficial to local prevention efforts if the data collected by county DVDRTs is centralized on a statewide basis.
- Only 3 teams are either currently using or developing a local a database for their DVDRT data.

#### DVDRT Successes

- Some of the major successes identified by teams include: noticeable decreases in the number of domestic violence homicides in their county; increased dedication and accountability among county agencies in examining their own practices for responding to domestic violence; improvements in how individual team members carry out their duties in the field; and improved working relationships among county agencies.

#### DVDRT Frustrations and Recommendations for Improving DVDRT Operations

- Teams identified some of the following frustrations concerning the operation of DVDRTs: lack of sufficient funding; lack of sufficient time to dedicate to each case review; high turnover of team members resulting in more inexperience and less dedication among team members; and team members lacking the full support and commitment from the leaders of their agencies.
- Seven (7) out of 10 teams felt that regular regional and/or state meetings would be the most important way to improve DVDRT communication and information-sharing among teams, particularly if funding was available for teams to participate in these meetings.
- Teams felt that the actual implementation of DVDRT recommendations was one of their biggest challenges and that significant improvements should be made concerning DVDRT follow-up on recommendations.

## Independent Domestic Violence Homicide Reviews

### Establishment of Independent Review

- Both organizations began conducting grassroots, independent reviews of domestic violence murders in response to a particularly heinous case that occurred in their county. At the time of this murder, there was also no established DVDRT in their county.

### Funding of Independent Reviews

- Both organizations are funded purely by private donations and grants. Neither organization receives any local, state or federal government funding. Both organizations cite their lack of financial and other ties to government as contributing to a more advocacy-based review of domestic violence deaths.

### Case Selection

- Most often, reviewers have a personal connection to the case (i.e., are a friend or relative of the victim) or have read news articles about a case that highlights a history of agency inaction concerning domestic violence.

### Case Review

- Both organizations have developed written protocols and guidelines for private individuals who wish to conduct their own independent review of a domestic violence fatality, and use these protocols/guidelines in conducting their own reviews.<sup>108</sup>
- Reviews often start with a search of public records. Although there is generally no “closed case” policy for conducting an independent review, a search of public records is typically more effective after a criminal trial has been completed.
- Independent reviewers use confidentiality agreements in conducting interviews with witnesses and agency representatives in order to ensure that they are getting complete information about the case, as well as to maintain their credibility with those involved in the case.

### Data Collection and Reporting

- The information gathered from an independent review is typically documented as a written narrative and/or chronology.

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Independent reviewers use the data gathered from their case reviews to advocate for systemic reforms.

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Independent reviewers reported being more successful than DVDRTs in working with the families of victims and perpetrators to investigate and publicize cases.

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- Due to the relatively small number of independent reviews, as well as individualized styles of reporting, centralizing the data collected from these reviews is not a major concern of independent reviewers.

#### Independent Review Successes

- Both organizations identify the major benefits of conducting independent reviews to include the ability to gather and report case information in a way that contributes an advocacy-based perspective to domestic violence murders and exposes specific system and agency failures.
- The organizations used information gathered in one of their case reviews to file a successful federal civil rights lawsuit against a local law enforcement agency for failing to adequately respond to complaints by a domestic violence victim.

#### Independent Review Frustrations

- The organizations identified the following frustrations associated with conducting an independent domestic violence homicide review: lack of sufficient funding and resources, including the inability to hire an investigator and support staff; lack of sufficient staff time to review cases; minimal support and cooperation among local government agencies for grassroots reviews; lack of additional advocacy organizations and individuals engaging in independent reviews; and the negative impact of political backlash against their organizations from local government officials and agencies that are criticized in their reviews.

## WHERE DO WE GO FROM HERE?

The following are some of the policy recommendations for improving domestic violence death review practices that are included in our full report.

- **Every county in California should engage in some form of regular domestic violence death review.** Counties that are able to establish formal DVDRTs should do so. However, even counties that lack the agency support and resources needed to establish a formal DVDRT should, at a minimum, engage in some informal process (e.g., ad hoc meetings among local advocates and agency representatives when a particularly egregious death occurs) to assess systemic problems concerning domestic violence deaths in their community.

- **DVDRTs should engage in strategic planning and regular evaluations of their case selection and review process to identify ways to improve the focus and efficiency of their operations.** To this end, DVDRTs should set long-term goals and regularly assess team practices to ensure that their reviews are

developing in a way that best promotes efficiency, reflects community needs, and produces accurate and useful information about domestic violence deaths.

- **DVDRTs should engage in community outreach and education regarding their findings, recommendations and general domestic violence prevention.** Because DVDRTs are government-sponsored, team leaders have a high level of access to, and credibility among, the general community, government officials and political bodies. Nevertheless, only a few DVDRTs currently engage in active outreach and education regarding their findings and recommendations. DVDRTs can take a lesson from grassroots reviewers by placing a greater emphasis on serving as activists and educators on domestic violence prevention in their communities.

- **Increase government funding and resources to support the establishment and development of DVDRTs.** It was not enough to merely pass the 1995 legislation authorizing the establishment of DVDRTs. The successful growth and operation of DVDRTs requires an increased commitment from state and local government agencies to support the critical work performed by DVDRTs, whether that support comes in the form of actual financial aid or making participation in death review an ongoing and significant job responsibility of agency representatives who work on domestic violence cases.

- **The state should continue to encourage and facilitate collaboration and information sharing among local DVDRTs.** In addition, teams should continue to be encouraged and provided with funding, when needed, to take advantage of national domestic violence death review meetings and resources. The establishment of statewide DVDRT listservs and newsletters are also an important and possibly more cost-effective way to enhance communication and information sharing among teams.

- **The state should establish a system for collecting and analyzing minimum standard data from local DVDRTs.** DVDRTs are able to collect much more detailed information about domestic violence deaths than that which is currently collected through criminal justice data collection systems. The state should examine whether tools such as a standard, statewide data collection form for DVDRTs would be useful and efficient for collecting death review data. In order to preserve flexibility and autonomy among counties, DVDRTs should still have discretion to collect supplemental information about cases and develop their own data collection forms so long as these forms include the information tracked by the state.

- **Victim advocates and private individuals should be more proactive in conducting independent domestic violence death reviews.** Independent reviews are an empowering way for community members to gain a clear picture of the different agency dynamics and failures that are contributing to the incidence of domestic violence deaths in their county, rather than simply relying on the highly confidential review and recommendation process of local DVDRTs. Individuals can use independent reviews to organize their communities and place significant pressure on local agencies to improve their practices.

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In 76% of the cases involving a history of domestic violence, family members, friends, neighbors and/or co-workers were aware of abuse in the relationship.

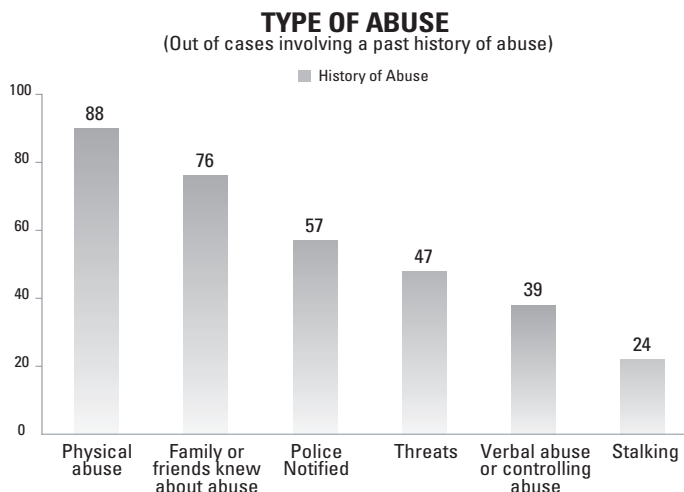
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## SURVEY OF 100 MURDERS OF WOMEN AT THE HANDS OF THEIR MALE INTIMATE PARTNERS

In order to better understand the dynamics that cause women's most intimate relationships to erupt into violence and murder, CWLC's Murder at Home Project conducted a survey of 100 homicide cases in California, occurring from 1998-2002, where a woman was killed by a male intimate partner.<sup>109</sup> The results from our 100-Case Survey reveal disturbing and dangerous similarities in the lives and deaths of women murdered by their intimate partners.

### **A majority of homicide victims experienced an escalating pattern of abuse by the perpetrator.**

- In 59% of the surveyed cases, there was a confirmed history of abuse<sup>110</sup> by the perpetrator against the victim prior to the murder.
- Of the cases with a history of abuse, 88% had a history of physical abuse<sup>111</sup> in the relationship; 47% of the cases involved a history of threats on the victim's life by the perpetrator; 39% of the cases involved a confirmed history of verbal abuse and/or highly controlling behavior by the perpetrator; and 24% percent of the cases involved the perpetrator stalking the victim.



**Most homicide victims who were abused by their partners never directly sought help from legal or community resources for domestic violence.**

- 86% of victims who were abused never sought domestic violence-related services from hospitals, shelters, and/or community-based organizations prior to their murders.
- 68% percent of abused murder victims never obtained, or attempted to obtain, a protective order against their abusive partner, and only 20% had an active restraining order against their abuser at the time of the murder.

**In most cases with a history of abuse, government agencies, community agencies or third parties were aware that abuse was occurring in the relationship.**

- In 76% of the cases involving a history of abuse, family members, friends, neighbors and/or co-workers were aware of domestic violence in the relationship. 14% of the victims had even voiced explicit concerns to third parties that they feared for their safety or thought the perpetrator would try to kill them.
- In total, the parties had prior contact with police, courts or community service providers regarding incidents of domestic violence and/or family and friends had prior knowledge of abuse in the couple's relationship in 92% of cases with a confirmed history of abuse.

**Regardless of whether there was a history of abuse in the relationship, victims were just as likely to be killed after they had taken steps to leave their partner.**

- 45% of the couples in our case study were separated or in the process of separating at the time of the murder.
- 14% percent of the victims were killed within a month of leaving, or threatening to leave, the relationship.

**A significant number of perpetrators had come into contact with the criminal justice system prior to killing their intimate partners.**

- 41% of the perpetrators had been arrested previously for domestic violence or some other crime. Of that group, 73% had prior arrests for domestic violence, and 59% had been arrested for domestic violence against the victim they ultimately killed.

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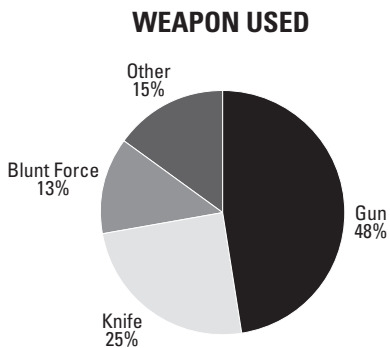
Nearly 70% of abused murder victims never obtained, or attempted to obtain, a protective order against their abusive partner.

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Most intimate partner murders occur in the home.

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A gun was the weapon that was most commonly used by perpetrators to kill their intimate partner.

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- 26% of the perpetrators who had prior criminal convictions had been convicted of domestic violence against the woman they ultimately killed.

**1 in 4 perpetrators (25%) were either on probation at the time of the murder or had been on probation at some point in the past.**

- 15% of the perpetrators were on probation at the time of the murder, and 53% of these perpetrators were on probation for committing domestic violence against the victim they murdered.
- Moreover, 8% of the perpetrators were attending a batterers' treatment program at the time of the murder.

**A perpetrator's history of mental illness or substance abuse was a contributing factor to many intimate partner homicides.**

- One (1) in 5 perpetrators was either suffering from mental illness at the time of the murder, or had a history of mental illness. Common conditions among the perpetrators include depression, suicidal tendencies, paranoia, and psychotic episodes.
- In addition, 22% of the perpetrators had a confirmed history of substance and/or alcohol abuse.<sup>112</sup> 13% of the perpetrators were on a substance at the time of the murder. The most common substances abused by perpetrators were alcohol at 68% and methamphetamine at 32%.

**Women between the ages of 35 and 44 may face a heightened risk of intimate partner murder.**

- 24% of the victims were under 25 years of age when they were murdered; 16% of the victims were between the ages of 25 and 34; 36% of the victims were between 35 and 44 years of age; 15% of the victims were between the ages of 45 and 54; and, 9% of the victims were 55 years old or over.

**Most typically, intimate partner murders occur at home.**

- Over two-thirds (71%) of the victims in our case study were murdered by their perpetrators in their homes or directly outside their homes. The second most common location was on the street, freeway, or in a car (10%).<sup>113</sup>

**A gun was the weapon that was most commonly used by perpetrators to kill their intimate partner.**

- Perpetrators used guns in almost half the cases (48%). In 25% of the cases, knives were used.

**The violence inflicted by perpetrators was not limited to the intended victim of domestic violence.**

- In one out of every five cases (20%), a person other than the victim was either killed or injured at the time the murder took place. A total of 16 children and 11 adults were killed in addition to the 100 victims in our study (victim and/or perpetrators' children, co-workers, neighbors, family members, new intimate partners, friends, and bystanders).
- Moreover, children were present at the time of the murder in 29% of the cases – almost one-third of the time.

**One-third (33%) of the cases in our study were murder-suicides, where the perpetrator killed himself immediately after killing his intimate partner, or within a short time after her murder.**

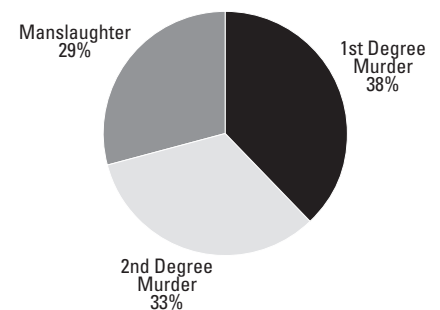
- 7% of the perpetrators died from committing suicide after being chased by the police or being charged with murder. 3% of the perpetrators unsuccessfully attempted suicide after they murdered their intimate partners.

**Perpetrators received longer criminal sentences when they were tried for murder than when they pled guilty to the crime.**

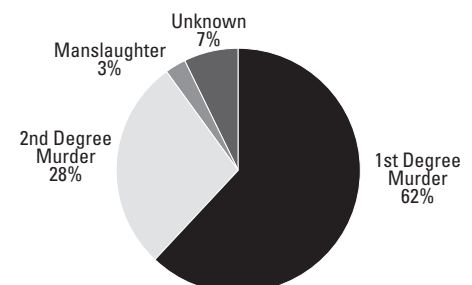
- Of the perpetrators who pled “not guilty” to murder and whose cases went to trial, 62% were convicted of first-degree murder.<sup>114</sup>
- In contrast, only 38% of the perpetrators who pled “guilty” to murder were convicted of first-degree murder.<sup>115</sup>
- None of the perpetrators who were convicted of murder received the death penalty.

In 1 out of every 5 cases, a person other than the intended victim was seriously injured or killed at the time that the murder took place.

**CONVICTIONS OF PERPETRATORS**  
Who Pled Guilty



**CONVICTIONS OF PERPETRATORS**  
Who Pled Not Guilty



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). 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).
4. 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).
5. 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.
6. 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.
7. We conducted a Northern California Roundtable Discussion and a Central California Roundtable Discussion. The Northern California Roundtable Discussion was attended by 15 professionals who work in the domestic violence field. These professionals represented a total of 9 counties in Northern California. The Central California Roundtable Discussion was attended by 9 professionals who work in the domestic violence field. These professionals represented a total of 9 counties in Central California.
8. 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.
9. Barbara J. Hart, *Arrest: What is the Big Deal*, 3 *WM. & MARY J. OF WOMEN & L.* 207, 211 (Spring 1997).
10. Erez, E., L.L.B., Ph.D., *Domestic Violence and the Criminal Justice System: An Overview*, *ONLINE JOURNAL OF ISSUES IN NURSING*, VOL. 7, No. 1 (January 31, 2002) available at [http://www.nursingworld.org/ojin/topic17\\_3.htm](http://www.nursingworld.org/ojin/topic17_3.htm) (accessed July 30, 2005) and U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE FOR VICTIMS OF CRIME, *New Directions From the Field: Victim's Rights and Services for the 21<sup>st</sup> Century*, OFFICE OF VICTIMS OF CRIME BULLETIN, NCJ 172813 (August 1998).
11. In 2003, law enforcement agencies in California received 194,288 domestic violence-related calls for assistance. CALIFORNIA DEPARTMENT OF JUSTICE, CRIMINAL JUSTICE STATISTICS CENTER, *Domestic Violence-Related Calls for Assistance, 1986-2003*, available at <http://ag.ca.gov/cjsc/glance/cht11.htm> (accessed July 30, 2005).
12. Buzawa, E. and Buzawa, C., *Domestic Violence: The Criminal Justice Response* (3<sup>rd</sup> ed.), SAGE PUBLICATIONS, INC. (2003) pp. 71-88.
13. CAL. PENAL CODE §13519 (2005); 11 C.C.R. 1005 and 11 C.C.R. 1081. Officers who completed their entry-level course requirements prior to 1986 are required to undergo supplementary training on domestic violence. CAL. PEN. CODE §13519(e) (2005).
14. This continuing training must cover recent changes in domestic violence law, as well as recent changes to POST guidelines for law enforcement response to domestic violence. CAL. PEN. CODE §13519(g) (2005).
15. These policies must reflect the fact that domestic violence is criminal conduct that should be treated as seriously as other violent crime and include standards for officers in taking reports, making arrests, enforcing restraining orders and providing information and assistance to victims of domestic violence. CAL. PEN. CODE §§13701 and 13702 (2005).
16. CAL. PEN. CODE §13710 (2005). In 1990, this mandate was expanded to include records of domestic violence protective orders that have not yet been served on the restrained party. CALIFORNIA ASSEMBLY BILL 4237 (1990); CAL. PEN. CODE §13710 (2005).
17. CAL. PEN. CODE §13730(c) (2005).
18. *Id.*
19. CAL. PEN. CODE §13701(c)(9) (2005).
20. CAL. PEN. CODE §13701(c)(9)(H) (2005).
21. CAL. PEN. CODE §13701(c)(8) (2005).
22. CAL. FAM. CODE §6228(a) (2005).
23. Incident reports must allow officers to: (1) identify the incident as a "domestic violence" incident; (2) indicate whether the officers responding to the call observed that the allegedly abusive party was under the influence of alcohol or drugs; (3) indicate whether any law enforcement agency previously responded to domestic violence between the same parties at the same residence; and (4) indicate whether officers made any inquiry as to the presence of a weapon and, if so, whether a weapon was found as a result of this inquiry. CAL. PEN. CODE §13730(a) (2005).
24. CAL. PEN. CODE §13701(b) (2005). Pursuant to this mandate, some law enforcement agencies have adopted pro-arrest policies only for cases of felony domestic violence and/or cases of misdemeanor domestic violence that occur in an officer's presence, while others have adopted pro-arrest policies for both felony and misdemeanor domestic violence cases generally. See, e.g., *Uniform Marin County Law Enforcement Protocol for the Handling of Domestic Violence*

Cases, MARIN COUNTY POLICE CHIEFS' ASSOCIATION, (adopted January 11, 2001) at p. 12.

25. This includes restraining orders issued by another state, tribe or territory of the United States. If the victim is unable to provide the officer with a copy of the restraining order, the officer is required to confirm whether the restraining order has been registered with state or local authorities immediately following the arrest. CAL. PEN. CODE §836(c) (2005).

26. CAL. PEN. CODE §13701(b) (2005).

27. State law defines a "dominant aggressor" as "the person determined to be the most significant, rather than the first, aggressor." *Id.*

28. An EPO is a temporary protective order that can be issued over the telephone 24 hours a day, 7 days a week, by an "on call" judge if there are reasonable grounds for believing that a victim is in immediate and present danger of domestic violence and an EPO is necessary to prevent the occurrence or reoccurrence of domestic violence against the victim. CAL. FAM. CODE §§6241, 6250 and 6251 (2005). EPOs are only valid for a period of 5 court days, or 7 calendar days, from the time they are issued, whichever is earlier. CAL. FAM. CODE §6256 (2005). The fact that the victim or offender has already left the home should not affect the availability of an EPO. CAL. FAM. CODE §6254 (2005).

29. However, a law enforcement officer may not be held civilly or criminally liable for failing to enforce an EPO if the officer can demonstrate that he/she made a good faith attempt to enforce the order. CAL. FAM. CODE §6272 (2005).

30. "Temporary custody" means that law enforcement is required to keep the firearm or deadly weapon for at least 48 hours, but no more than 5 business days, before returning it to the owner/possessor. Law enforcement is not required to return a firearm or deadly weapon to its owner/possessor if the weapon is retained as evidence for criminal prosecution or is determined to be stolen. Moreover, if law enforcement has "reasonable cause" to believe that returning the weapon to its owner/possessor will endanger the victim, an officer can petition the court for a determination of whether the firearm or deadly weapon should be returned. CAL. PEN. CODE §12028.5(f) (2005).

31. DVRTs typically consist of police investigators and domestic violence advocates/counselors who are available 24 hours a day to respond to domestic violence incidents. *Domestic Violence Response Teams (DVRTs)*, COUNTY OF SAN DIEGO, HEALTH AND HUMAN SERVICES AGENCY, OFFICE OF VIOLENCE PREVENTION, available at <http://www2.sdcounty.ca.gov/hhsa/ServiceDetails.asp?ServiceID=722> (accessed August 3, 2005). DVRTs first surfaced in California in mid-1990s, with the Los Angeles Police Department's Van Nuys Division being one of the first law enforcement agencies in the state to institute a DVRT program. *Domestic Abuse Team Long Overdue*, LOS ANGELES TIMES (November 13, 1994).

32. Some officers felt that they do not have sufficient authority to confiscate weapons at the scene of a domestic violence incident or in cases where a perpetrator is subject to a court-ordered firearms relinquishment. Advocates, on the other hand, felt that officers in many cases are simply not exercising their authority and discretion to confiscate firearms from perpetrators.

33. 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.

34. The 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. Eleanor Boulin-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). 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." *Id.*

35. This study found that approximately 40 percent of the officers they 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. The study surveyed 385 male police officers, 40 female officers and 115 female spouses of officers. 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. Eight (8) percent of male officers reported severe physical violence, including strangling, beating, or using a weapon against their intimate partners. *Id.*

36. Boyd Larry, et al., *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). 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. For officers facing their first sustained complaint of domestic violence, 52 percent of departments preferred counseling to other methods of discipline. Forty-eight (48) percent of departments preferred to discipline officers facing a second sustained complaint by suspending them without pay. *Id.*

37. 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. 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; *Mitchell*, 209 F.3d at 322-23.

38. 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. V. Kappeler, *Kentucky's Response to the Lautenberg Act: Curbing Domestic Violence Among Police* (1999). Only 12 officers statewide were identified as having domestic violence convictions that triggered the federal gun prohibition. Of these 12 officers, 2 were terminated and 7 had their convictions expunged. *Id.* 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. 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)].

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

40. 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). 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. *Id.*

41. 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). The model policy was a collaborative effort between law enforcement, victim advocates and domestic violence victims from across the country. 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). 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. *Id.*

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

43. *Id.* at 12-26.

44. 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).

45. Kathrine Mader, *Domestic Violence in the Los Angeles Police Department: How Well Does the Los Angeles Police Department Police its Own?* OFFICE OF THE INSPECTOR GENERAL AND LOS ANGELES DOMESTIC VIOLENCE TASK FORCE (1997).

46. Of the 227 cases reviewed, only 40 percent of the investigated complaints of domestic violence were sustained. 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. Of the complaints that were sustained, 61 percent resulted in suspensions, with the vast majority falling between one and fourteen days. Twenty-two (22) percent of the perpetrators received only a reprimand or admonishment, and only 9 percent were actually terminated from their employment. Only 4 officers were convicted of domestic violence offenses. Of these 4 officers, one had his conviction expunged, and two received only minimal suspensions from the department for their misconduct. *Id.* Almost a third of officers with sustained domestic violence complaints were eventually promoted. None of the officers were barred from obtaining desired positions or transfers. 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. *Id.* at 30.

47. In November 1999, Phillip Garcia, an officer for the Newark Police Department in Santa Clara County, killed his ex-girlfriend, Lisa Munoz. Two restraining orders had been issued against Garcia in the 1990s. Despite these restraining orders, Garcia was hired by the King City Police Department and the Newark Police Department. 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; and Michelle Guido, *Garcia Had Faced Two Restraining Orders Over Girls, Killer's Troubled Past Revealed*, SAN JOSE MERCURY NEWS (November 13, 1999) at 1A; and 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.

48. 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. *Id.*

49. 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.

50. 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.").

51. The facts of *DeShaney v. Winnebago County Department of Social Services* are notoriously tragic. From the time he was two years old, Joshua DeShaney was brutally and repeatedly beaten by his father, Randy DeShaney. For over two years, the Department of Social Services ("DSS") received numerous complaints concerning the abuse of Joshua by his father, but the DSS took no action. In March 1984, when Joshua was only four years old, he received a severe beating to the head that left him comatose and required emergency brain surgery. Joshua's mother brought a Section 1983 claim against the Winnebago County DSS and several DSS employees who had received complaints about Joshua's abuse. The suit alleged that DSS had violated Joshua's right to due process by "failing to intervene to protect him against a risk of violence at his father's hands of which they knew or should have known." The district court issued a judgment in favor of DSS and the Seventh Circuit affirmed this decision. The U.S. Supreme Court, in turn, affirmed the Seventh Circuit's decision, holding that "a State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause." The Court pointed to the fact that Joshua's abuse was "private violence" which "the State played no part in creating." *DeShaney v. Winnebago County Department of Social Services*, 489 U.S. 189 (1989). Although not decided in the domestic violence context, *DeShaney* sounded the death knell for many substantive due process claims based on law enforcement's failure to protect victims of domestic violence. As a result of *DeShaney*, law enforcement's knowledge of an existing threat to a woman's safety – even coupled with evidence that the state had offered her protection in the past from domestic violence (i.e., issued a restraining order, provided police protection, etc.) – is no longer sufficient to create a special relationship between a domestic violence victim and the state. Law enforcement must have actively played a role in creating or increasing the danger for a victim in order to give rise to a constitutional duty to protect a victim of domestic violence.

52. In *Town of Castle Rock v. Gonzales*, Jessica Gonzales obtained a restraining order against her estranged husband, Simon Gonzales, in Colorado. Colorado law mandated that police "shall" use every reasonable means to enforce restraining orders and "shall" arrest restrained persons in violation of an order. Simon took their three children while they were playing outside the family home in violation of the restraining order. That day, Jessica contacted the police numerous times and asked them to enforce the restraining order, but the police refused to do so. Finally, she went down to the police station and submitted an incident report, but the officer went to dinner instead of trying to locate Simon and the children. A few hours later, Simon arrived at the police station and opened fire, at which point he was shot and killed by police. Police found the dead bodies of Jessica's three children in Simon's car, all of who had been murdered by Simon earlier that evening. The Tenth Circuit held that the Colorado statute requiring police to enforce restraining orders created an entitlement to receive protective services in accordance with the terms of the statute – an entitlement that carries due process protection against state deprivation. However, the Supreme Court reversed the Tenth Circuit decision, holding that state law did not create a legitimate claim of entitlement to police enforcement of a restraining order. The Court found that, although the Colorado statute was mandatory in nature, its mandate was not absolute as police still maintained some level of discretion in deciding whether, and what steps to take, to enforce a restraining order given the particular circumstances of each case (e.g., whether the perpetrator is present at the scene of the incident) and the other obligations that the police have at that moment. In addition, the Court found that, because the right to police enforcement of a restraining order did not resemble "property" in the traditional sense in that it did not "have some ascertainable monetary value," such a right did not constitute a "property" interest for purposes of the Due Process Clause. *Towne of Castle Rock v. Gonzales*, 125 S. Ct. 2796 (2005).

53. Tort claims are state civil causes of action that allow individuals to seek monetary damages if they have been personally injured by the negligent or intentional conduct of another. Tort claims do not include claims for breach of contract.

54. This statistic is based on California Department of Justice statistics regarding the disposition of adult arrests for felony spousal abuse in 2000. According to these statistics, there were a total of 12,132 felony domestic violence convictions in 2000. As a result of these convictions, 10,846 offenders received a sentence of probation or probation with jail.

55. Unlike many other states, there is no statewide agency that governs probation for adults and juveniles in California. Rather, probation is entrusted to county governments and each of California's 58 counties has a probation department. San Francisco County has separate juvenile and adult county probation departments, resulting in a total of 59 county probation departments in the state. See Christopher D. Condon, *Falling Crime Rates, Rising Caseload Numbers: Using Police Probation Partnerships*, CORRECTIONS TODAY (February 2003).

56. Penal Code Section 1203.097 currently sets the minimum terms of probation for domestic violence as follows: (1) A minimum probationary period of 3 years; (2) the issuance of a criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment by the probationer; (3) notice to the victim of the disposition of the case; (4) the probationer must enroll in a 52-week batterer's treatment program with weekly sessions of a minimum of two hours class time duration (probationer shall file proof of enrollment in a batterer's program with the court within 30 days of enrollment); (5) the batterer's treatment program is required to make periodic progress reports to the court regarding the probationer every three months or less; (6) the probationer must complete the batterer's treatment program within 18 months and must attend consecutive weekly sessions of the program, unless granted an excused absence for good cause (probationer cannot be excused from participation for more than three individual sessions during the entire program); (7) the probationer shall be ordered to perform community service; (8) the probationer shall pay a minimum fine of \$400 to be disbursed among state and county Domestic Violence Funds (based on ability to pay); (8) in addition, the probationer may also be required to (a) make payments to a battered women's shelter, up to a maximum of \$5,000 and/or (b) reimburse the victim for reasonable expenses that the court finds are the direct result of the probationer's offense. CAL. PENAL CODE § 1203.097 (2005).

57. Section 1203.097 also sets forth the duties of probation officers, prosecutors and the courts to ensure compliance by the offender with these conditions of probation. For instance, if the offender is not complying with the terms of probation, is not benefiting from batterer's treatment, or has committed acts of violence against the victim or another person, the probation officer or prosecutor can request, or the court can itself order, that additional sentencing be imposed on the offender, up to and including incarceration. CAL. PENAL CODE § 1203.097(a)(12) (2005).

58. Under "diversion," certain offenders charged with misdemeanor domestic violence were allowed to avoid criminal prosecution by agreeing to participate in batterer's treatment and/or rehabilitative programs. Eligibility for "diversion" was based on the following factors: (1) charge was a misdemeanor; (2) assault did not involve a deadly weapon; (3) defendant had not been convicted of any violent offenses or been diverted within the past 10 years; (4) defendant's record did not indicate that probation or parole had ever been revoked without having been completed.

59. CALIFORNIA STATE SENATE, Senate Committee Analysis of Senate Bill 169 (July 15, 1995).; Veto letter addressed to the Members of the California Assembly and signed by Governor Pete Wilson on September 29, 1997, available at [http://www.leginfo.ca.gov/pub/97-98/bill/asm/ab\\_0501-0550/ab\\_520\\_vt\\_19970929.html](http://www.leginfo.ca.gov/pub/97-98/bill/asm/ab_0501-0550/ab_520_vt_19970929.html) (accessed August 8, 2005); Veto letter addressed to the Members of the California Senate and signed by Governor Gray Davis on September 10, 2000, available at [http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb\\_2051-2100/sb\\_2059\\_vt\\_20000910.html](http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb_2051-2100/sb_2059_vt_20000910.html) (accessed August 8, 2005).

60. *Promising Practices Guide*, THE PROBATION PROJECT, p. 1, available at <http://www.sonoma.edu/cihs/html/Probation/probationpromisingpractices.htm> (accessed August 8, 2005).

61. Generally, "high-risk" offenders are those who have been determined to pose a serious risk to the community that warrants heightened supervision and monitoring by probation officers. See LOS ANGELES COUNTY PROBATION DEPARTMENT, *Adult Special Services Bureau, Adult Supervision, High Risk Offenders (HRO)*, available at <http://probation.co.la.ca.us/adult/aspecial.html#ADULT%20SUPERVISION> (accessed August 30, 2005) and SANTA BARBARA COUNTY PROBATION DEPARTMENT, *The Santa Barbara County Probation Department* (2004), p. 17, available at [http://www.countyofsb.org/probation/generalinfo/departement\\_ow.pdf](http://www.countyofsb.org/probation/generalinfo/departement_ow.pdf) (accessed August 30, 2005).

62. An in-depth examination of batterers' treatment programs will be included in future volumes of this report.

63. Policy recommendations regarding batterers' treatment programs will be included in future volumes of this report.

64. See THE PROBATION PROJECT, *supra* note 60; F. Mederos et al., *Domestic Violence and Probation*, VIOLENCE AGAINST WOMEN ONLINE RESOURCES, available at <http://www.vaw.umn.edu/documents/bwjp/probationv/probationv.html>.

65. Neil Websdale, et al., *Reviewing Domestic Violence Fatalities: Summarizing National Developments*, VIOLENCE AGAINST WOMEN ONLINE RESOURCES, available at <http://www.vaw.umn.edu/documents/fatality/fatality.html#id2634549> at 23-4.

66. *Domestic and Sexual Violence Data Collection: A Report to Congress Under the Violence Against Women Act*, NATIONAL INSTITUTE OF JUSTICE, AND U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, July 1996 at 6. The report argues that: "[t]he availability of comprehensive and reliable statistical data on domestic and sexual violence is a critical imperative because decision-makers at the State and local levels are confronting questions concerning appropriate policies and effective procedures for addressing this problem, and they need more information to guide their thinking."

67. *Crime in the United States*, U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION (2003) at p. 3.

68. James Fox and Marianne Zawitz, *Homicide Trends in the U.S.: Intimate Homicide*, BUREAU OF JUSTICE STATISTICS (last updated on September 28, 2004), available at <http://www.ojp.usdoj.gov/bjs/homicide/intimates.htm> (accessed August 30, 2005).

69. The National Crime Victimization Survey is administered by the U.S. Census Bureau on behalf of the BJS. NCVS data is gathered through surveys conducted twice a year among a nationally representative sample of households. Approximately 150,000 individuals ages 12 and over are surveyed annually. Households remain in the nationally representative sample for three years and are rotated on an ongoing basis. *The Nation's Two Crime Measures*, U.S. DEPARTMENT OF JUSTICE (October 2004), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/ntcm.pdf> (accessed August 30, 2005).

70. While summary-based reporting tracks aggregate data on crimes, incident-based reporting sends individual reports on each crime to the statistics center thereby allowing for the collection of more detailed information about these crimes. *Information Bulletin, Subject: California Crime Statistics Reporting*, OFFICE OF THE ATTORNEY GENERAL (2003) No. 03-01-BCIA.

71. See *Uniform Crime Reporting, National Incident-Based Reporting System, Volume II, Data Submission Specifications*, NATIONAL INSTITUTE OF JUSTICE, BUREAU OF JUSTICE STATISTICS, available at <http://www.fbi.gov/ucr/nibrs/manuals/v2all.pdf> (accessed August 30, 2005); *NIBRS Manual, Conversion of NIBRS Data to Summary Data*, NATIONAL INSTITUTE OF JUSTICE, BUREAU OF JUSTICE STATISTICS, available at <http://www.fbi.gov/ucr/nibrs/manuals/conversion.pdf> (accessed August 30, 2005).

72. Title IV, Violence Against Women Act of the Violence Crime Control and Law Enforcement Act, 42 U.S.C. § 40292(a) (1994); EVE BUZAWA & CARL BUZAWA, *Domestic Violence: The Criminal Justice Response*, (Sage Publications, Thousand Oaks: California 2003) at 123.

73. This study reports that, as of 1996, 25% of states and territories were not collecting data on domestic violence. *Domestic and Sexual Violence Data Collection*, *supra* note 66 at 3-4.

74. *Id.*; Ramona Rantala, *Effects of NIBRS on Crime Statistics*, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS (July 2000) at 1-4.

75. See Charles Kindermann, Ph.D., et al., *Effects of the Redesign on Victimization Estimates*, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, NCJ 164381 (April 1997) at p. 2.

76. *Id.*

77. Callie Marie Rennison, Ph.D., et al., *Special Report: Intimate Partner Violence*, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, NCJ 178247 (May 2000), p. 1; Callie Marie Rennison, *Special Report: Intimate Partner Violence and Age of Victim, 1993-99*, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, (October 2001).

78. *When Men Murder Women: An Analysis of 2001 Homicide Data*, VIOLENCE POLICY CENTER (2003), available at <http://www.vpc.org/graphics/WMMW03.pdf> (accessed June 28, 2005) at 2.

79. See *Exposure Reduction or Backlash? The Effect of Domestic Violence Resources on Intimate Partner Homicide*, NATIONAL INSTITUTE OF JUSTICE, (January 2001), available at <http://www.ncjrs.org/pdffiles1/nij/grants/186194.pdf> (accessed August 30, 2005); Jane Koziol-McLain, et al., *Femicide Risk: Reconciling Attempted and Actual Models, Address at the 2001 Annual Meeting of the Homicide Research Work Group*, Orlando, Florida (2001).

80. *Homicide in California, 2002*, ATTORNEY GENERAL OF CALIFORNIA (2002), available at <http://caag.state.ca.us/cjsc/pubs.htm> (accessed August 30, 2005) at 11-22; see Cal. Pen. Code § 13020(a)-(c) (2005). The CADOJ collects data on intimate partner murder under the purview of general homicide data collection. State homicide data collection tracks, among other factors, the relationship between the victim and the perpetrator of the murder and whether domestic violence was a precipitating event to the murder. In addition, the CADOJ tracks the race of the victim and perpetrator, as well as the location of the murder and the weapon used. *Willful Homicide Crimes 2003, Precipitating Event: Domestic Violence, County By Victim To Offender Relationship* from CALIFORNIA DEPARTMENT OF JUSTICE, CRIMINAL JUSTICE STATISTICS CENTER, (2003) (print out of *Precipitating Event: Domestic Violence by Relationship information*, dated July 12, 2004) (on file with author).

81. Since as early as 1981, CADOJ has also tracked homosexual intimate partner murders, which is a progressive category of analysis for the nation. December 6, 2004 communication with the Special Requests Section of the California Department of Justice's Criminal Justice Statistics Center (on file with author).

82. CAL. PEN. CODE § 11163.5 (2005).

83. CAL. PEN. CODE § 13731 (2005).

84. *Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence*, ATTORNEY GENERAL'S TASK FORCE ON CRIMINAL JUSTICE RESPONSE TO DOMESTIC VIOLENCE (June 2005), p. 86; *Homicide in California, 2003*, OFFICE OF THE ATTORNEY GENERAL (1995), available at <http://caag.state.ca.us/cjsc/publications/homicide/hm03/cr1.pdf> (accessed August 30, 2005).

85. Team members may include prosecutors, coroners, law enforcement officers, probation and parole officers, mental health and health care professionals, child protective service workers, victims' advocates, batterers' treatment counselors and representatives from community agencies who deal with a significant population of domestic violence victims, such as victim-witness assistance and immigration agencies. *Domestic Violence Death Review Interview Summary*, CALIFORNIA WOMEN'S LAW CENTER, MURDER AT HOME PROJECT (July 2004) (on file with author).

86. DVDRT meetings provide a confidential forum for each agency involved in a particular intimate murder to come forward with relevant information that can assist the team in tracking exactly what happened in that case and how different agencies could have better protected the safety of the victim. Neil Websdale, et al., *Domestic Violence Fatality Reviews: From a Culture of Blame to a Culture of Safety*, JUVENILE AND FAMILY COURT JOURNAL 61 (Spring 1999) at 61.

87. *Contra Costa County Domestic Violence Death Review Team Report* (March 2003), available at [http://www.cchealth.org/special/pdf/dvdr\\_t\\_report\\_2003.pdf](http://www.cchealth.org/special/pdf/dvdr_t_report_2003.pdf) at 3 (accessed August 30, 2005). DVDRTs were largely modeled after child abuse fatality review teams, which originated in the late 1970s and were considered successful in improving systemic responses to child abuse and neglect. See *California's Domestic Violence Death Review Team Protocol*, supra note 115 at 2; Senate Rules Committee Analysis of Senate Bill 1230, CALIFORNIA STATE SENATE, OFFICE OF SENATE FLOOR ANALYSES (September 14, 1995).

88. *Violence Against Women Programs: A Strategic Plan for Twenty-First Century San Francisco*, SAN FRANCISCO COMMISSION ON THE STATUS OF WOMEN, (November 1997), available at [http://www.sfgov.org/site/dosw\\_page.asp?id=20177](http://www.sfgov.org/site/dosw_page.asp?id=20177) (accessed August 30, 2005).

89. The Commission found that Veena's murder highlighted systemic problems with the way that San Francisco's civil and criminal justice agencies responded to domestic violence, and that future domestic violence murders could be prevented if significant changes were made. The Commission made over 100 recommendations for improving agency response to domestic violence in San Francisco and then worked with local agencies to implement their recommendations. *Justice and Courage: A Blueprint for San Francisco's Response to Domestic Violence*, SAN FRANCISCO COMMISSION AND DEPARTMENT ON THE STATUS OF WOMEN, available at [http://www.sfgov.org/site/dosw\\_page.asp?id=19835](http://www.sfgov.org/site/dosw_page.asp?id=19835) (accessed August 30, 2005).

90. The Santa Clara Domestic Violence Death Review Committee was established as a sub-committee of the Santa Clara Domestic Violence Council. Rolanda Pierre Dixon, *Final Report, January 1, 2001 – December 31, 2001*, SANTA CLARA COUNTY DOMESTIC VIOLENCE DEATH REVIEW COMMITTEE (February 2002) p. 13.

91. California Assembly Bill 1230 (Solis), Chaptered on October 10, 1995; CAL. PEN. CODE § 11163.3, et seq. (2005). Penal Code Section 11163.3 describes the general objectives of county DVDRTs to include the following: (1) identifying and reviewing domestic violence deaths, including homicides and suicides; (2) facilitating communication among agencies involved in domestic violence cases; and (3) reviewing agency involvement in domestic violence incidents to develop recommendations aimed at reducing the incidence of domestic violence in the community. Section 11163.3 also lists categories of professionals who should be included on county DVDRTs, including forensic pathology experts, coroners, prosecutors, law enforcement personnel, medical professionals, battered women's advocates, and representatives from child abuse agencies. Moreover, Section 11163.3 authorizes counties to develop protocols and written reporting procedures to assist coroners and others who perform autopsies in identifying whether a person had been a victim of domestic violence prior to death and whether domestic violence was the actual cause of death for a victim. *Id.*

92. *California Domestic Violence Death Review Teams*, CALIFORNIA ATTORNEY GENERAL'S OFFICE, CRIME AND VIOLENCE PREVENTION CENTER, available at <http://www.safestate.org/index-print.cfm?navid=352> (accessed August 30, 2005).

93. CAL. PEN. CODE § 11163.3 (2005).

94. CAL. PEN. CODE § 11163.3(g)(3) (2005).

95. The range of information that DVDRTs may request pursuant to Section 11163.3 is among the most expansive in the nation. However, DVDRTs cannot compel individuals or agencies to provide them with the information. Robin H. Thompson, Esq., *Confidentiality and Fatality Review*, FATALITY REVIEW BULLETIN, NATIONAL DOMESTIC VIOLENCE FATALITY REVIEW INITIATIVE (2002) p. 105.

96. CAL. PEN. CODE § 11163.5(c)(1) (2005).

97. *Id.*

98. CAL. PEN. CODE § 11163.6 (2005).

99. *California's Domestic Violence Death Review Team Protocol*, (2000) CALIFORNIA ATTORNEY GENERAL'S OFFICE, CRIME AND VIOLENCE PREVENTION CENTER, available at [http://safestate.org/documents/dvdr\\_t\\_protocol.pdf](http://safestate.org/documents/dvdr_t_protocol.pdf) (accessed July 15, 2005). The statewide protocol also includes an appendix of important resources for teams, such as sample confidentiality agreements and data collection forms. *Id.* at Appendix A – E.

100. *Id.* at p. 3.

101. Electronic mail from Sandra Gaarder, Crime and Violence Prevention Center, California Department of Justice, to Emily Austin, CWLC Intern (July 23, 2004) (on file with author).

102. *Id.*

103. Two organizations that were responsible for conducting some of the first independent reviews of domestic violence homicides in California are the Purple Berets and the Women's Justice Center. Over the past decade, these organizations have worked together and separately to produce more than a dozen independent reviews of domestic violence deaths in Northern California. CALIFORNIA WOMEN'S LAW CENTER, *supra* note 85.

104. Tanya Brannan, *Investigating Domestic Violence Homicide: A Guide For Women's Rights Activists & Journalists* (January 2003) PURPLE BERETS, available at [http://www.purpleberets.org/violence\\_investigatingdv.htm](http://www.purpleberets.org/violence_investigatingdv.htm) (accessed August 30, 2005); Marie De Santis, *How to Investigate Domestic Violence Homicide, A Guide for Investigating the Path Leading Up to Domestic Violence Homicides – For Friends, Activists, Journalists, and All Who Care*, WOMEN'S JUSTICE CENTER, available at [http://www.justicewomen.com/cj\\_investigate\\_guide.html](http://www.justicewomen.com/cj_investigate_guide.html) (accessed August 30, 2005).

105. CALIFORNIA WOMEN'S LAW CENTER, *supra* note 85.

106. *Id.*

107. "Blue suicides" are cases in which a victim commits suicide by intentionally confronting and/or threatening law enforcement in order to provoke them to react by shooting him/her.

108. These guides include information on how to research public documents, strategies for conducting personal interviews, and tips for documenting findings from the investigation. *How to Investigate Domestic Violence Homicide*, *supra* note 104.

109. CWLC's case study is based on 100 cases where a woman was killed by her male intimate partner in California during a five-year period (1998 through 2002). CWLC identified cases through media searches and interviews with advocates. Data on each case was gathered from media reports, court documents, and interviews with prosecutors and advocates involved with the case. CWLC then used California Department of Justice statistics to determine the proportionate number of women killed by male intimate partners in each California county during the five-year period. The final 100 cases included in the survey reflect these proportionate numbers. For example, if 5 percent of the total number of murders during the five-year period occurred in Alameda County, CWLC selected 5 of the 100 surveyed cases from Alameda County. The number of cases from each county was then adjusted slightly to account for geographic and urban/rural diversity among cases. For example, although Yolo County did not have a statistically significant number of intimate femicides during the five-year period, CWLC reduced the number of cases from a heavily represented urban county, such as Los Angeles County, in order to include a case from Yolo County. CWLC was unable to track factors such as race and socioeconomic status because there was insufficient information about these factors for all 100 cases. The 100-Case Survey is an informal study of homicide cases and is not intended to be a scientific examination of intimate femicide in California. However, the results from the 100-Case Survey are nevertheless significant and highlight important similarities and patterns in the circumstances of these murders.

110. "Abuse" includes physical abuse, sexual abuse, stalking, threats, and verbal abuse and/or a pattern of highly controlling behavior.

111. "Physical abuse" includes any physical force and contact, whether the incident involved a push or a severe beating, and sexual abuse.

112. Reporting on victims' substance abuse and mental health issues was too inconsistent and ambiguous to develop concrete statistics on these factors in our study. There was ambiguity in 13 of the cases as to the substance abuse status of the perpetrator at the time of the murder. For information on substance abuse and mental health issues for domestic violence victims, see Statewide California Coalition for Battered Women at <http://www.sccbw.org/links3.htm?qx=34100up1311e19o432> (accessed August 30, 2005) and New York State Office for the Prevention of Domestic Violence at [http://www.opdv.state.ny.us/coordination/model\\_policy/alcohol.html](http://www.opdv.state.ny.us/coordination/model_policy/alcohol.html) (accessed August 30, 2005).

113. Other locations where women were murdered were at a friend, relative, or new boyfriend's home (6%), the victim or perpetrator's workplace (4%), a public place (3%), and one woman was murdered in a hotel room. In 6 cases, the exact location of the victim's murder was unknown.

114. Fifty-seven (57) percent of the perpetrators charged with murdering their intimate partners pled not guilty to the crime. Seven (7) percent of these perpetrators pled not guilty by reason of insanity. Twenty-eight (28) percent were convicted of second-degree murder, and 3% were convicted of manslaughter. Seven (7) percent of those who pled not guilty committed suicide before their trial date.

115. In our 100-case survey, only 58% of the perpetrators were charged with murdering their intimate partners (33% of the cases were murder-suicides and, in 9% of the cases, the perpetrator either died, committed suicide, or fled prior to criminal charges being filed) Thirty-eight (38) percent of the perpetrators charged with murder pled guilty to the crime. Of those who pled guilty, 38% of the perpetrators were convicted of first-degree murder, 33% were convicted of second-degree murder, and 29% were convicted of manslaughter.



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