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# ***California's Response to Domestic Violence***



***California Senate Office of Research***

***June 2003***

June 2003

Dear Colleagues and Other Interested Persons:

This report, *California's Response to Domestic Violence*, reviews California legislative actions dating back to the 1970s expanding the criminal and civil law sanctions against batterers and protections for those they abuse. This report was prepared at my request to help us assess the efforts we have made thus far, as well as the continuing needs posed by the on-going threat of domestic violence.

While California has taken significant steps to address this violence as a major health and safety issue, far too many adults and children continue to live in fear. At its most extreme, domestic violence kills. We can and should do more to stop this abuse. This report concludes with recommendations presented to improve existing policies and to protect intimate partners from injury and death.

I hope you will find this review of the California Legislature's efforts useful as we continue to address the impact of domestic violence on the health and safety of California families.

Sincerely,

SHEILA JAMES KUEHL  
Senator  
California State Senate

# ***California's Response to Domestic Violence***

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***A History of Policy Issues and Legislative Actions  
To Combat Domestic Violence in California***

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***June 2003***

# *Table of Contents*

<b>Executive Summary .....</b>	<b>1</b>
<b>Introduction .....</b>	<b>5</b>
<b>Part I: Facts About Domestic Violence in California .....</b>	<b>6</b>
<b>Figure I: Homicides Committed by Men and Women Intimates in California, 1992-2001 .....</b>	<b>7</b>
<b>Part II: Early Milestones in Domestic-Violence Legislation .....</b>	<b>9</b>
<b>Part III: Welfare Reform and Domestic Violence .....</b>	<b>11</b>
<b>Part IV: Domestic Violence as a Major Health Issue .....</b>	<b>13</b>
<b>Part V: Increased Public Funding for Local Shelters .....</b>	<b>15</b>
<b>Figure 2: Funding for Domestic-Violence Programs in California, 2001-02 .....</b>	<b>16</b>
<b>Part VI: New Laws Are Expected to Spur More Arrests, Prosecutions and Convictions.....</b>	<b>19</b>
<b>Figure 3: Domestic-Violence Police Calls and Arrests in California, 1990-2000.....</b>	<b>20</b>
<b>Figure 4: Results of Random Selection of Calls to Law Enforcement for Assistance in Domestic-Violence Cases, San Diego, 1996 .....</b>	<b>21</b>
<b>Figure 5: Percentage of Domestic-Violence Arrests in California Resulting in Complaints Filed and Convictions, 1990-2000 .....</b>	<b>22</b>
<b>Figure 6: Percentage of Total Domestic-Violence Arrests in California by Gender, 1990-2000 .....</b>	<b>24</b>
<b>Part VII: Family Law .....</b>	<b>29</b>
<b>Part VIII: Prevention.....</b>	<b>32</b>
<b>Figure 7: Domestic-Violence Homicides: Female and Male Victims by Weapon, California, 1980-1999 .....</b>	<b>35</b>
<b>Conclusion: Options for Action.....</b>	<b>37</b>
<b>Appendix A: Recent Reforms in California’s Domestic-Violence Laws .....</b>	<b>39</b>
<b>Appendix B: Domestic-Violence Research and Policy Agenda .....</b>	<b>51</b>

## ***Executive Summary***

Combating domestic violence has been a priority for California policy-makers since the late 1970s, but the focus on this often-hidden form of abuse has intensified since the O.J. Simpson case raised public awareness in 1994. Simpson was acquitted of murdering two people, one of them his former wife. But the public learned Nicole Brown Simpson repeatedly had sought police protection from her husband and that in 1989 he pleaded no contest to abusing her.

The rate and frequency of domestic violence remains difficult to precisely document, since it generally occurs in private. But data do hint at the scope of the problem. The California Department of Justice says 196,880 incidents of domestic violence were reported to local law enforcement in California in 2000. Arrests on domestic violence charges rose by 17 percent, to more than 51,000, in California between 1990 and 2000. Based on the 1998 California Women's Health Survey, the California Department of Health Services estimates that 6 percent of California adult women, or more than 620,000, were physically abused in the year before the survey. Studies consistently find that women are much more likely than men to be hurt by an intimate.

California's laws now recognize domestic violence as a major health issue. Significant laws require:

- Those who provide health care to be trained in the detection of domestic abuse,
- Hospitals and clinics to adopt written policies on the treatment of victims of battering, and
- Health practitioners to report cases of domestic violence to law enforcement.

State funding for local shelters to help protect victims from their assailants dramatically increased in 1994 when the Legislature and Governor Wilson provided an initial \$11.5 million to the Department of Health Services for distribution to shelters across the state. The amount has risen steadily, and totaled over \$17 million in the 2001 - 02 fiscal year. Federal funding for shelters also increased in the 1990s. Local county funding that comes from marriage license fees was last increased in 1993. Shelters receive almost \$6 million per year from marriage license fees. These monies have helped expand services at the 110 shelters now located throughout California, but shelters still struggle to provide emergency refuge and sufficient assistance to battered adults and children. Shelters often are unable to assist with the kinds of legal services, transitional housing, job placement and prevention programs that could help bring long-term relief to victims in crises.

A host of recent laws, spelled out further in this document, are intended to spur more arrests, prosecutions and convictions when domestic violence is reported to law enforcement. These laws:

- Require on-going training of officers who typically respond to domestic violence calls,
- Encourage arrest of alleged abusers,
- Require arrest of persons who violate restraining orders,
- Eliminate an option of diversion -- in which an accused abuser is diverted into a treatment program and is not charged with the crime -- in domestic violence cases, and
- Eliminate an option of civil compromise -- in which an accused batterer pays damages to a victim rather than face prosecution -- in domestic violence cases.

Other recent strategies to improve the response of the criminal justice system to domestic abuse in California include:

- Assigning the same prosecutor to a case from beginning to end,
- Creating county domestic violence courts to handle these cases,
- Providing training for court personnel involved in such matters,
- Removing any firearms at the scene of a domestic-violence incident and keeping guns out of the hands of court-identified batterers, and
- Notifying victims when abusers are released from jail.

Abuse in intimate relationships often is an issue in family law matters. When a family law court is deciding custody and visitation, reforms beginning in 1990 make consideration of any domestic violence integral to the decision-making process.

Community-based efforts to curb domestic violence also have expanded in recent years. These range from fund-raisers to support local shelters to media campaigns and school-based education drives to combat abuse. In some jurisdictions mental-health counselors and victim advocates are making follow-up visits to homes where police have responded to reports of domestic violence.

These laws, strategies and community campaigns, coupled with reports of some positive outcomes, suggest California has made progress toward addressing domestic abuse. The continuing magnitude of this abuse calls for ongoing attention, effective responses and new approaches.

*California's Response to Domestic Violence*  
*June 2003*

Increased public and private funding for shelters, better coordination between law enforcement agencies and the courts, and broader education and prevention projects are some ways in which California's response to battering could continue to improve. Prevention ideas that might reduce domestic violence include breaking the "cycle of domestic violence" by providing more services to the children who witness battering in the home, doing more to keep guns out of the hands of batterers, launching a statewide media campaign, and reducing alcohol consumption.

The purpose of this paper is to illustrate the steps already taken in California to address domestic abuse, the continuing dimensions of the issue and additional proposals that might be made.





## ***Introduction***

This paper documents the California state government response to domestic violence, beginning with laws passed in the late 1970s. It updates a similar review by the California Senate Office of Research published in November 1997. Basic information about the prevalence of domestic violence is presented first. The most recently available statistics and surveys are used for this purpose, and most of these date from the 1990s or 2000. The bulk of the paper covers the policy approaches the government has taken to addressing this public health epidemic and complex crime in the last three decades. It concludes with ideas for expanding prevention efforts and suggestions for improving California's domestic violence policies.

The purpose of this review is not only to document these laws, but also to help gauge their effectiveness. If an evaluation of a law or other relevant data is available, that information is included here. Policy-makers are painfully aware that intimate-partner violence wreaks havoc in our society and legislative reforms are only a beginning. Based on its decades-long history in this area, the California Legislature can be expected to continue to pursue ways to better to respond to this debilitating violence.

## ***Part I: Facts about Domestic Violence in California***

Domestic violence is difficult to measure because it generally occurs in private. Many victims do not seek assistance because they are afraid or ashamed. There are no definitive estimates of how many incidents of domestic violence go unreported. Most studies probably underestimate its occurrence.

In this paper, domestic violence is defined as physical abuse committed by one partner against another in an ongoing or prior intimate relationship. The victims of domestic violence are overwhelmingly women.

Predictably, a myriad of other problems are associated with battering and batterers -- including depression, suicidal tendencies, and alcohol and drug abuse. Children who grow up in violent families are likely to have problems in school, to abuse drugs and alcohol and to repeat the pattern of abuse as adults.

### ***A State Average of 539 Incidents of Domestic Violence Reported Daily***

The California Department of Justice (DOJ) says 196,880 incidents of domestic violence were reported to local law enforcement agencies in 2000. Between 1990 and 2000, statewide arrests for Penal Code section 273.5 (corporal injury on a spouse or cohabitant) increased 17 percent, from 43,760 to 51,225. Prevalence surveys, discussed below, tell us that many more instances of domestic violence occur than are reported to law enforcement.

### ***Prevalence Surveys***

Based on the 1998 California Women's Health Survey, the California Department of Health Services estimates that 6 percent of California adult women, or more than 620,000, were physically abused in the year before the survey. This survey also found that 11 percent of adult victims said they sought medical treatment for this abuse. African-Americans reported a higher percentage of abuse than Hispanic, white, Asian/Pacific Islander or other women. About 75 percent of adult victims had children at home, predominantly under age 6. When broken down by age, younger women were more likely to report being victims than older women.<sup>1</sup>

A California Healthy Kids Survey done in 1998-99 by the California Department of Education found that about 10 percent of teens in relationships were hit, slapped or physically hurt on purpose by a boyfriend or girlfriend in a year-long period.

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<sup>1</sup> California Department of Health Services EPICgram, "Incidence of Non-Fatal Intimate Partner Violence Against Women in California, 1998-99," May 2002; Weinbaum, Z. et al., "Female Victims of Intimate Partner Physical Domestic Violence, California, 1998," *American Journal of Preventive Medicine*, 21 (4), 2001, 313-319.

### Homicide Data

In 2001, 130 homicides in California allegedly were committed by current or former husbands or boyfriends of the partners/victims, and 28 murders by current or former wives or girlfriends, according to the California DOJ. DOJ statistics for crimes reported to law enforcement show that each year between 1992 and 1999, 17 percent to 27 percent of women murdered in California were killed by current or former intimate partners.

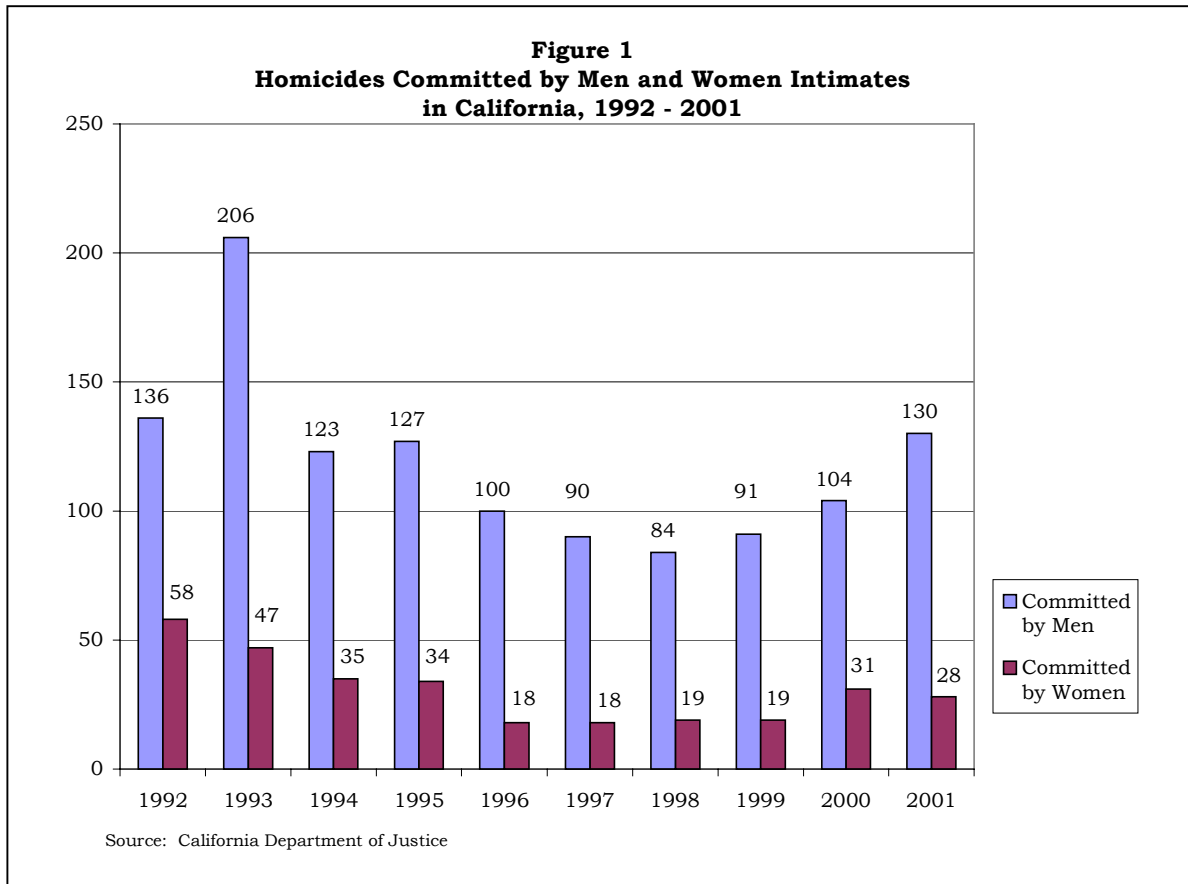


Figure 1 chronicles domestic-violence-related homicides committed by men and women from 1992 to 2001. Figure 1 shows identified intimate-partner homicides only and *does not include family members or others murdered* when the precipitating event was reported as domestic violence. Researchers are unable to tell us why there is a spike in the number of women murdered in 1993 and a subsequent decline after that. Laura Lund, a research scientist with the Department of Health Services, speculates in a 2000 paper that this decline *may* be related to the broad array of domestic violence policies adopted in the 1990s.<sup>2</sup> Because there was an overall decrease in the number of homicides across all perpetrator types in the 1990s, and because Figure 1 statistics reflect reported intimate-partner homicides, it is probably too soon to assess

<sup>2</sup> Lund, L.E., "Intimate Partner Homicide Trends in California, 1990 through 1998" *The Diversity of Homicide: Proceedings of the 2000 Annual Meeting of the Homicide Research Working Group*, U.S. Department of Justice: Washington, D.C., 2001.

the effect of policy changes on the decline in homicides. Since many murders are unsolved, it's highly likely that more deaths than those recorded here are related to domestic violence.

### ***A High Risk of Domestic Abuse Among Poor Women***

Domestic violence crosses all demographic and socioeconomic lines, but poor women may be most at risk. Based on the 1998 California Women's Health Survey, the state Department of Health Services found that women reporting annual household incomes less than \$15,000 were at increased risk for intimate partner abuse compared to higher income women.<sup>3</sup> A 1999 study conducted in eight U.S. hospitals, including two in the Los Angeles area, concluded that women at greatest risk for domestic-violence injury include those whose male partners abuse alcohol or drugs, are unemployed or intermittently employed, have less than a high-school education, and are former husbands, estranged husbands, or former boyfriends of the women.<sup>4</sup>

Since 1999, the California Institute for Mental Health has been studying welfare reform efforts in six counties in California. Interviews of welfare recipients done in Kern and Stanislaus counties assessed barriers to employment, including domestic violence. The survey found a high incidence of abuse among the welfare population. Twenty-eight percent of those surveyed in Kern County and 36 percent in Stanislaus County<sup>5</sup> reported that an incident of physical violence had occurred against them within a two-year period. For many of these women, the abusive relationship was a significant barrier to obtaining employment.

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<sup>3</sup> California Department of Health Services EPICgram, op. cit.

<sup>4</sup> Anglin, D. et al., "Risk Factors for Injury to Women from Domestic Violence," *New England Journal of Medicine*, 341, 1999, 1892-1898.

<sup>5</sup> Chandler & Meisel, "Need, Incidence, and Services, CalWORKS Project Research, Alcohol & Other Drugs, Mental Health, and Domestic Violence Issues," California Institute for Mental Health, www.cimh.org, Jan. 2002.

## ***Part II: Early Milestones in Domestic-Violence Legislation***

A movement to establish safe houses for domestic-violence victims and their children in the 1960s and 1970s led to efforts for systemic changes such as seeking new laws, developing stable funding sources for shelters, and educating and sensitizing law enforcement. Most of the early leaders of these efforts were women seeking to help other women. By the end of the 1970s, shelter advocates and women's rights groups had persuaded legislators of the need for legislation.

Four key bills were enacted in 1977. Senator Robert Presley authored SB 91, Chapter 892, to dispense \$280,000 to establish a statewide network of four to six domestic-violence pilot centers. Assemblymember Vic Fazio authored AB 1019, Chapter 720, to give courts the authority to grant temporary restraining orders in domestic-violence situations. And Senators Milton Marks and Presley authored two companion measures, SB 92, Chapter 908 (Presley), and SB 691, Chapter 912 (Marks), to create separate code provisions for child abuse and spousal abuse, and extend Penal Code Section 273.5 beyond spouses to cohabiting partners.

Other early milestones in domestic-violence laws in California include these measures:

- A 1979 measure (AB 546, Chapter 994) by Assemblymember Floyd Mori made spousal rape a crime in California, punishable as a felony or misdemeanor. Prior to this law, raping one's spouse was not a criminal act.
- Senator Presley authored three measures in the early 1980s that provided new revenues for local shelters for battered women financed by a series of increases in marriage license fees. SB 1246, Chapter 146 of 1980, added \$8 to the marriage license fee; SB 1330, Chapter 522 of 1982, raised the sum from \$8 to \$13; and SB 1364, Chapter 112 of 1984, raised the fee from \$13 to \$19. (A 1993 Presley bill, SB 5, Chapter 420, raised the fee from \$19 to \$23.)
- SB 1472 (Watson), Chapter 1609 of 1984, was designed to make police intervention more effective by requiring law enforcement agencies to develop written policies to guide their responses to domestic violence. It also requires statewide training of officers and data collection on domestic-violence calls.
- AB 3436 (Wright), Chapter 901 of 1984, gives law enforcement the authority to temporarily confiscate a firearm in plain sight or discovered after a consensual search when responding to a domestic-violence call for help.

- AB 573 (Klehs), Chapter 668 of 1985, requires law-enforcement officers responding to domestic violence calls to give victims in writing the telephone number of the nearest shelter, and information about community services and criminal and civil legal options.
- SB 135 (Presley), Chapter 250, and AB 225 (La Follette), Chapter 705, both of 1985, established the Domestic Violence Branch in the Office of Criminal Justice Planning.
- SB 1058 (Lockyer), Chapter 1387 of 1985, creates mandatory jail time of at least 48 hours for persons who cause injury by violating domestic-violence restraining orders.
- AB 1599 (Speier), Chapter 758 of 1987, allows emergency protective orders to be issued when a court is not in session. (A 1993 Speier bill, AB 224, Chapter 1229, extends the duration of emergency protective orders from two to five court days.)
- AB 2698 (Speier), Chapter 1377 of 1988, gives mediators in child custody or visitation disputes the authority to meet separately with the parties when there is a history of domestic violence between the parties.

In the 1980s, legislative concerns over domestic violence continued to grow. The California Alliance Against Domestic Violence, an advocacy group, began serving as a clearinghouse for legislative ideas and helped secure authors for proposed bills. Legislation addressing domestic violence really took off in the 1990s. A summary of significant bills enacted after 1990 are included in the appendix of this report.

### **Part III: Welfare Reform and Domestic Violence**

California adopted the "Family Violence Option" (FVO) in 1997 as part of the CalWORKS welfare-reform law.<sup>6</sup> The FVO flowed from the authorizing federal welfare-reform law and allowed states to waive numerous welfare requirements for survivors of domestic violence, including time limits on welfare and a requirement that paternity be established for children. California must confidentially identify welfare recipients who have been subjected to domestic violence and refer them to supportive services. When adopting the FVO, the California Legislature did not fund domestic violence services, unlike services for mental health and substance abuse which the Legislature did fund.

The California Institute of Mental Health (CIMH) study noted in Part I found that only five people in the two study counties reported having used the FVO, and only around 40 percent of the welfare recipients recalled being told about the FVO. From this finding, the CIMH suggested that many counties needed to do a more effective job of screening clients and referring them to services.

On the issue of training for welfare workers, the CIMH study found that some counties such as Los Angeles did a good job training workers about domestic violence and some counties did not. To address this problem, the California Department of Social Services is implementing system-wide training.

A March 2002 report by the National Conference of State Legislatures on welfare and domestic violence looked at state responses.<sup>7</sup> Among innovative approaches it cited:

- Some states are using flexible federal welfare funds or state "maintenance of effort" (MOE) funds to finance domestic-violence services such as emergency housing, counseling and legal advocacy. Some counties in California also do this.
- Some states include domestic-violence victims in their "diversion programs," so that one-time or short-term payments can provide help during an emergency or setback and keep the family from going on welfare. This is not done in California.
- Oregon and El Paso County in Colorado have special welfare programs to meet the needs of domestic-violence clients. This is not done in California.
- At least eight states place a domestic-violence service provider in county welfare offices. A majority of counties in California, including Los Angeles, do this.

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<sup>6</sup> Welfare & Institutions Code Sections 11495 and following.

<sup>7</sup> Walton, S., "Helping Domestic Violence Victims in the TANF Program," National Conference of State Legislatures, [www.ncsl.org](http://www.ncsl.org), March 2002.

Forty-three of California's 58 counties responded to a welfare survey<sup>8</sup> that found counties spent \$22.5 million on domestic violence services in the 2001-02 fiscal year, with \$12 million spent in Los Angeles County. The source of these monies was not identified in the survey. California does not have a separate budget allocation for welfare/domestic-violence spending as some states do. This lack of state statutory funding for domestic-violence services for welfare recipients, the survey concludes, "has led to a large discrepancy in funding of domestic-violence services between counties."<sup>9</sup>

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<sup>8</sup> California Institute of Mental Health, et al., "State of Domestic Violence Funding and Services in California, County by County Summary, Executive Summary," [www.cimh.org](http://www.cimh.org), June 2002.

<sup>9</sup> California Institute of Mental Health, *op. cit.*



## **Part IV: Domestic Violence as a Major Health Issue**

The response of the health-care industry to domestic violence generally has grown in the last decade. For instance, most major medical associations began a push to make domestic violence a major health issue, and developed educational materials to assist health-care providers in identifying, treating and referring victims of abuse. Some medical schools now include training in recognizing and addressing family violence. Legislative reforms spurred additional changes.

In 1993, two major bills were enacted to affect the health-care response to abuse. Assemblymember Barbara Friedman carried AB 890, which requires health-care providers to receive training in the detection of domestic violence and directs hospitals and clinics to adopt written procedures on screening and treating abused women and men. Assemblymember Jackie Speier authored AB 1652, which updates and expands the law requiring health professionals to report to law-enforcement agencies suspected domestic violence as soon as possible by phone and in writing within 48 hours.

The Friedman bill was enacted in the wake of a 1993 Family Violence Prevention Fund study that found that most emergency departments lacked policies and procedures to address domestic violence.<sup>10</sup> This is important because many women using emergency rooms are abused. A 1998 California- and Pennsylvania-based study found roughly one in seven women admitted to emergency rooms reported being physically abused in the previous year.<sup>11</sup> One researcher has estimated the 1995 nationwide cost of emergency room visits for victims of intimate-partner abuse in 1995 dollars at \$158.8 million.<sup>12</sup>

Since the enactment of the Friedman protocols and training bill, a Trauma Foundation study found that more hospitals have adopted the written protocols required by the law and the quality of the protocols has improved.<sup>13</sup>

An evaluation by Jacquelyn Campbell and other medical researchers also found that hospital training has improved.<sup>14</sup> This study concluded that training in California was

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<sup>10</sup> McLoughlin, E. et al., "Emergency Department Response to Domestic Violence," *Morbidity and Mortality Weekly Report*, CDC, 42, 1993, 617-620.

<sup>11</sup> Campbell, J.C. et al., "Prevalence of Intimate Partner Abuse in Women Treated at Community Hospital Emergency Departments," *Journal of the American Medical Association*, 280, 1998, 433-438.

<sup>12</sup> Max, W., Professor of Health Economics, University of California, San Francisco, School of Medicine.

<sup>13</sup> Dodge, A.C. et al., "Improving Intimate Partner Violence Protocols for Emergency Departments," *Violence Against Women*, 8, 2002, 320-338.

<sup>14</sup> Campbell, J.C. et al., "An Evaluation of a System-Change Training Model to Improve Emergency Department Response to Battered Women," *Academic Emergency Medicine*, 8, 2001, 131-138.

effective in improving staff attitudes and knowledge about abuse, as well as patient information and satisfaction. Changes in actual clinical practices, such as identifying women with domestic-violence problems who were not obvious victims of trauma, was more difficult to achieve and may be influenced by institutional factors such as a need to revise medical forms.

Another health-training measure, SB 857 by Senator Mike Thompson, passed in 1995. It established a hospital-based center to train medical personnel on how to perform medical-evidence examinations of victims of child abuse, domestic violence, elder abuse and sexual assault. UC Davis Medical Center is the primary training center, and it subcontracts with the University of Southern California and UCLA to provide the training in Southern California. In 2002-03, these centers received \$0.7 million -- down from \$1.4 million in previous years -- from the state Office of Criminal Justice Planning (OCJP). Their yearly reports to OCJP document curriculum development, training, brochures, videos and conferences. How this training has affected victims and whether the training has helped the criminal-justice response to such violence has not been evaluated.

With respect to mandatory reporting of abuse to law enforcement as required by the Speier bill, a 1999 state Department of Health Services survey found that police and sheriffs' departments around the state receive only a handful of reports of domestic-violence cases each month from health-care practitioners, mostly emergency-room physicians.<sup>15</sup> More importantly, there is no evaluation data to answer questions about whether or how mandatory reporting is helping victims of domestic violence.

The concept of requiring domestic abuse to be reported to authorities is controversial and, according to the study cited above, often not followed. California might consider formally evaluating the impacts of this law.

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<sup>15</sup> Lund, L.E., "What Happens When Health Practitioners Report Domestic Violence Injuries to the Police? A Study of the Law Enforcement Response to Injury Reports," *Violence and Victims*, 14, 1999, 203-214.

## **Part V: Increased Public Funding for Local Domestic Violence Shelters**

There are an estimated 110 shelters in California, 17 of them established since funding increased in 1994. Three small rural counties -- Alpine, San Benito and Sierra -- have no shelter programs, according to the OCJP Domestic Violence Branch. However, these counties tap into shelter services in neighboring counties.

Most shelters exist on shoestring budgets with public and private funding. Public funding comes from marriage-license fees, state General Fund allocations, fines paid by batterers and federal sources. Under the laws authored by state Senator Presley, shelters now receive \$23 from every marriage license issued. This translates to nearly \$6 million per year. Marriage license fees and one-third of the fines paid by batterers go directly to the counties for distribution to shelters and are not part of the state General Fund allocations.

Figure 2 shows the county, state and federal funding available to the main domestic-violence programs, with the majority of the money going to shelters. In 2000-01, domestic-violence programs received approximately \$61.6 million from these three sources.

Despite the infusion of new money in the last 10 years, many shelters often are unable to assist all who seek emergency shelter for themselves and their children.<sup>16</sup> Additionally, shelters are hard-pressed to provide legal services, counseling, transitional housing and job-placement assistance for battered persons. Most agency resources are exhausted in meeting emergency and transitional needs, and few are able to go the next step and fund prevention programs.

In the aftermath of the publicity surrounding O.J. Simpson's arrest and acquittal on charges of murdering his former wife, Nicole Brown Simpson, and her friend Ronald Lyle Goldman, the Legislature and Governor Pete Wilson created a new domestic violence program in the Department of Health Services for local shelter services. The initial appropriation was for \$11.5 million in 1994-95 and 1995-96. Since then, the state has increased these department funding levels to \$17 million for shelter services, \$4 million for prevention grants and \$2.5 million for outreach and services to underserved populations.

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<sup>16</sup> Bugarin, A., "The Prevalence of Domestic Violence in California," California Research Bureau, prepared at the request of Rebecca Cohn, November 2002, [www.library.ca.gov](http://www.library.ca.gov).

**Figure 2: Funding for Domestic-Violence Programs in California, 2001-02**

Administrating Entity and Program	Number of Shelters or Grantees Served	Federal Funding	State Funding	County Funding
Department of Health Services				
Shelter Grants	91 shelters		\$17 million	
Prevention Grants (includes technical assistance and training)	32 grantees		\$4 million	
Unserved/Underserved Populations	15 grantees		\$2.5 million	
Training and Education Program (PC 1203.097 fees)	10 grantees		\$0.6 million	
Injury Surveillance, Epidemiology, Evaluation and Administration	N/A		\$1.7 million	
Office of Criminal Justice Planning				
Shelter Grants	75 shelters	\$13.2 million	\$1.5 million	
Family Violence Prevention Grants	1 grantee		\$0.2 million	
Federal Violence Against Women Act/Health and Human Services Grants (for response teams, vertical prosecution, American Indian programs)	45 grantees	\$5.5 million		
Department of Housing and Community Development				
State Emergency Housing Assistance Program and Federal Emergency Shelter Grants*	49 shelters	\$1 million	\$2.3 million	
Department of Justice				
Vertical Prosecution Grants	43 county district attorneys and 4 city attorneys		\$3.8 million	
Restraining Order Reimbursement Fund (Penal Code 1203.097 fees)	197,362 restraining orders reimbursed in 2000-01		\$1.9 million (includes past unused funds of \$1.3 million)	
County Funds (estimated)				
Marriage License Fees (Welfare and Institutions 18305 funds)	110 shelters in the state			\$5.8 million **
Penal Code 1203.097 Fees (placed in Welfare and Institutions 18305 accounts)	110 shelters			\$0.6 million
<b>Total</b>		<b>\$19.7 million</b>	<b>\$35.5 million</b>	<b>\$6.4 million</b>

\* Shelters receiving emergency housing grants in 2000.

\*\* Estimate based on 252,411 marriage licenses issued in 2000-01.

State funding for shelters is also available through the Department of Housing and Community Development (HCD). In 2001-02, 49 shelters received \$1 million in federal dollars and \$2.3 million in state HCD grants for emergency housing. Emergency shelter housing generally lasts between 30 days to three months. Some shelters are able to fund transitional housing that generally lasts 18 months.

Funding for shelters from the federal government has also increased in the last decade. Most of these funds flow through OCJP to shelters through a grant-application process. In 2001-02, OCJP awarded grants to 75 shelters using \$13.2 million in federal funds and \$1.5 million from the state. Among the services provided, according to shelter reports to OCJP that tracked federal funds in 2000-01, these monies provided for 156,000 crisis line calls, 383,000 bed nights, counseling for 27,000 clients and 9,000 children, and legal/social service advocacy for 71,000 clients.

Federal funds were also used to provide grants for 25 local prosecutors to provide better legal representation to victims (\$2.9 million), 12 domestic-violence response teams (\$1.4 million), three American Indian shelters (\$0.5 million), one program to train tribal law-enforcement officers (\$0.1 million), one project to encourage shelters to use a uniform data-collection process (\$0.2 million), one project to help teen males who have been battered (\$0.2 million), and funding for the two statewide advocacy groups (\$0.2 million). OCJP disbursed an additional \$200,000 in state money for one statewide prevention program.

Because of the 2002-03 and 2003-04 budget deficits, domestic violence programs underwent some reductions in 2002-03, and several larger changes are proposed by the Governor Davis in the 2003-04 budget, including shifting OCJP shelter grant funding to the Department of Health Services, reducing staff to handle shelter grants and eliminating the vertical prosecution program in the Department of Justice. (See the section "Intimate Relationships Between Aggressors and Victims Make Prosecutions Difficult" for a description of this program.)

Proposed 2003 and 2004 federal funding through the Violence Against Women Act (VAWA), Victims of Crime Act (VOCA), and the Health and Human Services Agency remain stable, except for VOCA grants to states. VOCA grants could be reduced by \$50 million due to recent federal legislation that placed a cap on the amount of money available to states and created a new formula for the distribution of these funds. Victim advocacy groups are asking for an increase of \$60 million in the president's proposed VOCA appropriation.

### ***Issues at the Two State Agencies Overseeing Shelter Grants***

In 2001, the Department of Health Services (DHS) and OCJP didn't provide grant funding to 16 long-established shelters (6 DHS, 10 OCJP). After a public outcry, the six shelters de-funded by DHS were funded on appeal or received a one-year infusion of funds from the state Department of Justice. The 10 shelters de-funded by OCJP received one-year emergency grants through the passage of AB 664 (Dutra). Since the shelter-grant cycle runs for three years, DHS and OCJP still needed to find funding for the additional two years. SB 1894 (Escutia) was signed in 2002 to provide the

additional funding to DHS. And OCJP committed to funding the 10 shelters for two more years through unused OCJP sources.

Because of concerns about the administration of domestic-violence programs at OCJP and DHS, the Legislature held an oversight hearing in February 2002 and subsequently asked the Bureau of State Audits to review OCJP's and DHS's administration of their respective domestic-violence programs. A bill authored by Senator Escutia in 2002 (SB 1895) responded to these legislative concerns. This bill requires OCJP in administering domestic-violence programs to consult with an advisory council that includes victims' advocates and service providers.

In October 2002, the Bureau of State Audits issued an audit<sup>17</sup> that focused on administrative problems at OCJP and also pointed out problems at DHS. The audit found that OCJP failed to monitor domestic-violence grant recipients and wasted \$2.1 million in the last three years on program evaluations that were of "uneven quality, content and usefulness." The auditors also recommended that the state consider merging the domestic-violence grant programs at OCJP and DHS.

This view -- that there are problems with two different state agencies administering domestic-violence shelter grants -- was also raised in a November 2002 report by the California Research Bureau. One of the options at the end of the CRB report, "The Prevalence of Domestic Violence in California," suggests centralizing responsibility for domestic-violence programs and funding.<sup>18</sup>

Merging the domestic-violence shelter-grant programs was proposed by Governor Davis in the 2003-04 budget, but the proposal was rejected by the legislative budget subcommittees due to opposition from advocacy groups. The State and Consumer Services Agency is in the process of developing an alternative proposal to address the problems identified in the OCJP and DHS domestic-violence programs.

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<sup>17</sup> "Office of Criminal Justice Planning: Experiences Problems in Program Administration, and Alternative Administrative Structures for the Domestic Violence Program Might Improve Program Delivery," Bureau of State Audits, October 2002, <http://www.bsa.ca.gov/bsa/pdfs/2002107.pdf>.

<sup>18</sup> Bugarin, A, op. cit.

## ***Part VI: New Laws Are Expected to Spur More Arrests, Prosecutions and Convictions***

Improving the criminal justice response to domestic violence began with the passage of SB 1472 (Watson) in 1984. Senator Diane Watson authored this measure to address concerns about a lax approach by law enforcement in enforcing domestic-violence laws. SB 1472 required written policies on law-enforcement responses to domestic violence, statewide training of officers, and data collection on domestic-violence calls. Prior to the enactment of SB 1472, typical police responses entailed “cooling off” the angry batterer, walking the person around the block, and perhaps some attempt at mediation or referral. Because SB 1472 was limited to one-time training for all officers plus training in all police academies for new officers, Senator Watson successfully authored SB 132 in 1995 requiring *on-going* training for veteran officers.

A new strategy of bringing lawsuits against law-enforcement agencies that inadequately enforce domestic-violence laws is emerging as one way to improve the criminal-justice system. Several California cases have been brought in federal court concerning alleged problems with the ways in which law enforcement has or has not responded to a call for help from a victim who was later injured or killed. One case from Sonoma County was settled for \$1 million.<sup>19</sup>

In the last 10 years, some communities have started to use a domestic-violence response team (DVRT), often called a coordinated community-response team, when responding to a domestic-violence call to law enforcement for help. DVRT refers to a group that generally includes a victims’ advocate, a law enforcement officer, a district attorney, a probation officer, and a health-care provider. A few communities are adding a child protective services representative to this team. OCJP funds 12 of these teams in California utilizing federal Violence Against Women Act (VAWA) and U.S. Department of Health and Human Services funds.

This kind of coordination among domestic-violence service providers has not been evaluated in California, but the Urban Institute has done a number of reports analyzing federal VAWA grants. In the Institute’s 2000 report, the authors concluded that coordinated community responses to domestic violence and sexual assault improved the treatment of women victims of violence and held more perpetrators

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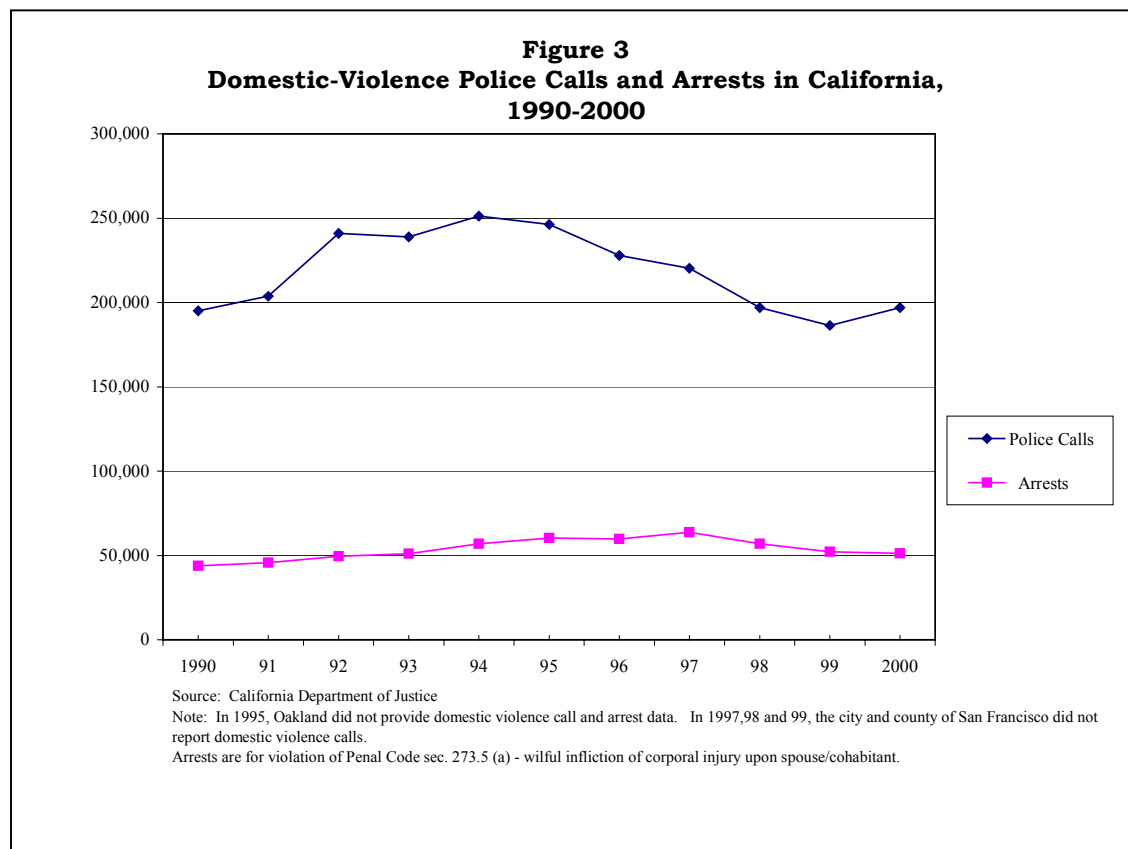
<sup>19</sup> *Estate of Macias v. Ihde*, C96-36585I, U.S. District Court, San Francisco, settled June 2002.

accountable. But that report cautioned that all the key groups need to be represented and working together for such an approach to work.<sup>20</sup>

### Domestic-Violence Crime Data

This section documents the available domestic-violence crime data. Critics repeatedly cite problems with this data. Recommendations for improving data collection are included here. The California Research Bureau's recent domestic-violence report also highlights data-collection issues and proposes similar options for improvement.<sup>21</sup>

Statewide statistics from the Department of Justice show some increase in the ratio of arrests on charges of violating Penal Code Section 273.5 (corporal injury on a spouse or cohabitant) to domestic-violence calls from 1990 to 2000 (Figure 3). In 1990, there were 195,019 calls and 43,760 arrests (22 percent). In 2000, there were 196,880 calls and 51,225 arrests (26 percent). The following Figure 3 on police calls and arrests provides the numbers over this 11-year period. It is important to note that suspects could have been arrested on some other domestic-violence-related charge,<sup>22</sup> but there is no way to determine this given the current state data-collection methods.



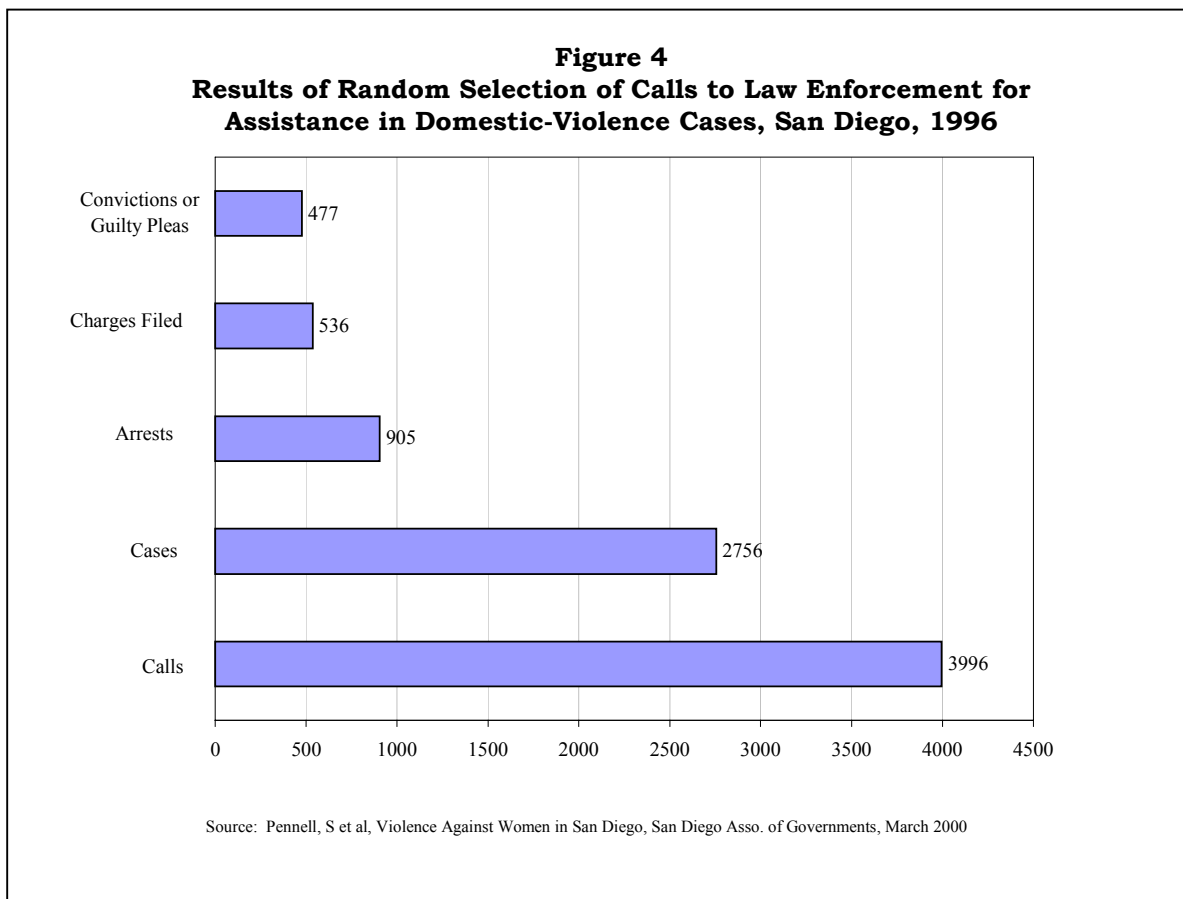
<sup>20</sup> Burt, M. et al., "2000 Report: Evaluation of the STOP Block Grants to Combat Violence Against Women Under the Violence Against Women Act of 1994," The Urban Institute, www.urban.org, 2000.

<sup>21</sup> Bugarin, A, op. cit.

<sup>22</sup> Other domestic-violence related charges include those contained in Penal Code Section 243(e). 262 and 273.6.



In 1996, the Legislature directed the San Diego Association of Governments to study domestic-violence law-enforcement data and make a report to the Legislature (AB 2448, Alpert).<sup>23</sup> That report randomly selected 3,996 domestic-violence calls out of 26,327 county-wide domestic-violence calls to law enforcement (Figure 4) in 1996. Of those 3,996 calls, 2,756 incidents were considered actual crime cases, while the remainder involved verbal arguments only, in which it was determined that no crime occurred. In that sample of 2,756 incidents, 905 persons were arrested. Evidence collection was a strong predictor of whether an arrest took place. Reasons given for lack of an arrest included that the suspect had fled the scene (46 percent) or that an arrest would have gone against the victim's wishes (21 percent).



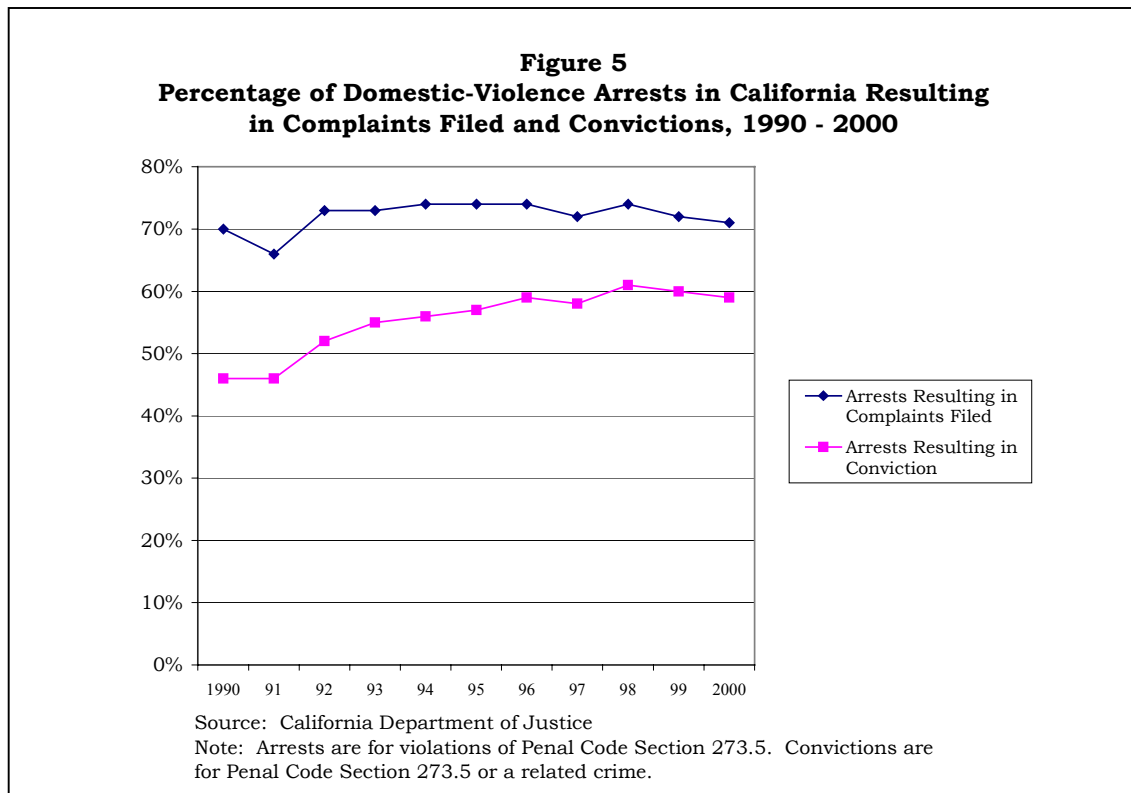
The majority (53 percent) of suspects in the San Diego County study were arrested under Section 273.5, the primary domestic-violence Penal Code section that is mentioned above. Domestic-violence-related battery was the second-most common arrest (14 percent), and the third-most common was for other domestic-violence-related charges (10 percent).

Of the 2,756 calls considered a crime and thus labeled a case, 1,037 incidents were referred to the district attorney or city attorney. Complaints were filed in 52 percent of these incidents, 36 percent were rejected and 12 percent were not filed (the report does not explain why they were not filed or rejected). Almost 50 percent of the

<sup>23</sup> Pennell, S. et al., "Violence Against Women in San Diego," San Diego Association of Governments, March 2000.

suspects were charged with a Penal Code Section 273.5 violation. The majority of filed incidents resulted in a guilty plea or a conviction. Figure 4 depicts the raw data from the San Diego sample. *The bottom-line from this San Diego County study, as depicted in Figure 4, is that 33 percent of domestic-violence cases resulted in an arrest and 17 percent of cases resulted in a guilty plea or a conviction.*

Given the many criminal-justice reforms that have taken place, it is interesting to note that in this in-depth San Diego study, most domestic-violence calls did not result in arrest, and many arrests did not result in a prosecution or a conviction. Researchers are unable to tell us whether this record from calls to convictions is typical or atypical of similar crimes, such as assault between strangers. The Legislature could authorize a follow-up study in San Diego to compare the 1996 study with data collected after the 1990's reforms were fully implemented. This would help determine whether these reforms have spurred more arrests, prosecutions and convictions.



Although the San Diego study traces the outcome of domestic-violence calls, researchers are unable to replicate this study on a statewide basis with existing data bases. For instance, researchers can compare statewide calls with arrests for Penal Code Section 273.5 (see Figure 3), but this comparison misses other kinds of arrests such as domestic-violence battery. Researchers can look at Section 273.5 arrests (again missing other kinds of arrests) that result in filed complaints and convictions (See Figure 5), but these numbers cannot be compared to calls for assistance because this information comes from two different data bases. The state Department of Justice

is working on ways to better capture domestic-violence data. Another option might be legislation to reform these data-collection practices.

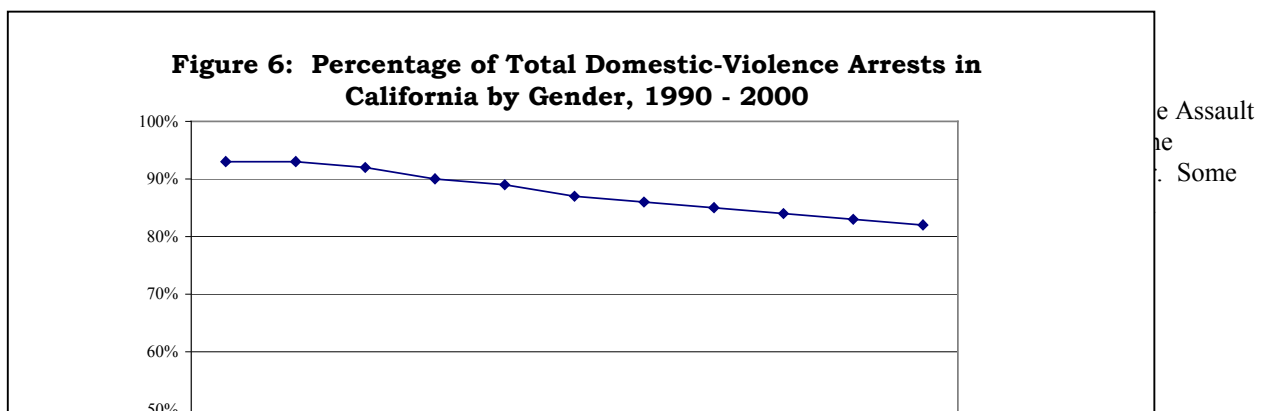
### California's Pro-Arrest Policy

To encourage law enforcement to take more decisive action when responding to a domestic-violence call, Senator Hilda Solis authored SB 591 (1995) and SB 1944 (2000). SB 591 requires law-enforcement agencies to carry out policies that encourage arrest in domestic-violence cases. The law discourages the arrest of both parties, instead encouraging officers to make reasonable efforts to determine the primary aggressor. Because of concerns about law enforcement arresting both abuser and victim or having trouble sorting out who was the primary aggressor, Senator Solis authored SB 1944 in 2000 to change the term "primary aggressor" to "dominant aggressor."

The most recent research on the effectiveness of pro-arrest (the policy that California has) and mandatory-arrest policies "found good evidence of a consistent and direct, though modest, deterrent effect of arrest on aggression by males against their female intimate partners."<sup>24</sup>

Figure 6 shows the gender of individuals arrested between 1990 and 2000 under Section 273.5 -- and that the percentage of arrests of females more than doubled. Still, more than 80 percent of arrested suspects were male.

Enactment of SB 1944 to encourage arrest of the dominant aggressor may reverse this trend of increased female arrests. On the other hand, the trend may be attributed to other factors, such as more men being arrested on more severe charges such as assault with a deadly weapon, in domestic-violence cases. Because of the way data is collected by the California Department of Justice -- arrests are tabulated based on the most serious charge -- many arrests related to domestic violence are not recorded as such. Another interpretation, drawn from data on teen violence, is that younger women are perhaps becoming more violent. Still others might posit that the percentages are reflecting the reality of domestic abuse -- that more women than previously thought are responsible for such violence. Absent further study, no one knows.



### ***Restraining Orders***

Emergency protective orders, temporary restraining orders and long-term restraining orders are used by victims to keep a batterer from coming within a certain distance. Emergency protective orders last for five court days (days when the court is in session) or seven calendar days and can be issued on the spot when police officers respond to a domestic-violence call. Temporary restraining orders last for three weeks and are issued by a court. Long-term restraining orders are valid for up to three years and are issued by a court after a hearing. Court-ordered restraining orders are issued by criminal courts if connected with an arrest or prosecution, or they are issued by civil courts if connected to a civil matter such as a divorce.

The state Department of Justice keeps a central computerized registry of restraining orders called the Domestic Violence Restraining Order System (DVROS). DVROS is part of the California Law Enforcement Telecommunications System or CLETS. CLETS tracks orders issued by both criminal and civil courts. Once a restraining order is entered into CLETS, law enforcement all over the state will know about the order with a quick computer search. This helps the police quickly respond to a potentially dangerous restraining-order violation.

Restraining orders established through criminal court should be entered into CLETS within one business day. In some counties there is a substantial backlog and this requirement is not met.

A study on how counties process *civil* protective orders was recently done by fellows in California's Judicial Administration Fellowship Program. They noted that there is no requirement in California law that these orders be entered into CLETS within one business day, whereas there is such a requirement for criminal orders. The fellows found that about 40 percent of the 39 counties responding to their survey required that a petitioner (the abused individual) deliver the civil order to law enforcement to be entered into CLETS. Because there are obvious drawbacks to placing this responsibility on the abused individual, the fellows recommended eliminating this "petitioner delivery" model.<sup>25</sup>

### ***Batterer Intervention Programs***

When an abuser is convicted, the abuser often is placed on probation, or given both probation and a jail sentence rather than just incarceration. Under AB 93X (Burton), enacted in 1994, batterers placed on probation must remain on probation for three years and successfully complete a weekly 90-minute group counseling session for at least a year. In 1995, the weekly group session was expanded to two hours under SB 169 (Hayden). Because many defendants were missing multiple counseling sessions, AB 217 (Pavley) was enacted in 2002 to require defendants to attend consecutive weekly sessions and to complete the year requirement within 18 months.

Prior to January 1996, even when abusers were arrested and prosecuted, they often were not charged with the actual crime but instead were placed in a "diversion" program that provided them with assistance such as counseling and substance-abuse treatment. Abuse charges were dismissed upon completion of the program. SB 169 (Hayden) of 1995 changed this law. Now defendants in domestic-violence cases must plead guilty or stand trial. If a guilty plea is entered or the defendant is convicted in court, the abuser is generally placed on probation and required to enter counseling for a year.<sup>26</sup> These counseling programs are referred to as batterer intervention programs (BIPs).

Research is lacking on the effectiveness of California's batterer intervention law.<sup>27</sup> More evidence is needed to assess factors such as the contributions of the training/experience of treatment and counseling staff, program format (including length of time), counseling approach, specialized interventions for abusers with special problems such as substance addictions, and specialized programs for abusers from different races, cultures and genders. Since California's law has not been evaluated by researchers, a rigorous evaluation would be helpful.

Better data collection is also essential to ferret out how well this law is working in California. Data on defendants assigned to BIPs is kept at the local level, if it is collected at all. California should consider a way to collect more complete data on these defendants.

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<sup>25</sup> Campos, L. et al., "Protecting Victims of Abuse: Counties Shouldn't Put Responsibility on Petitioners to File Restraining Orders," *San Francisco Daily Journal*, Sept. 4, 2002, p. 4.

<sup>26</sup> Mandatory terms of probation apply to any crime committed against an intimate partner (or former partner), not just a conviction for Penal Code sections 243(e), 262, 273.5 and 273.6.

<sup>27</sup> Penal Code Section 1203.097.

Some researchers challenge the notion that BIPs really work to stop men from abusing and assaulting their partners after treatment has ended. One researcher, who thinks BIPs do work for some defendants, found in a national study that as many as 20 percent of batterer-program participants repeatedly re-assault their partners despite intervention.<sup>28</sup> But, taken as a whole, the evaluations of BIPs show very modest success and there is some reduction in re-assaults by abusers who complete the BIP, compared with batterers who drop out or do not attend such a program.<sup>29</sup> Batterers who complete their intervention are often the ones who have the most to lose socially and economically. They generally have more education, higher incomes, are employed, are more likely to be first-time offenders, and generally have less prior criminal involvement.<sup>30</sup>

As a rehabilitation strategy, many researchers believe the best way to stop the abuser from re-abusing is to link BIPs to abuser accountability through certain and decisive criminal-justice responses.<sup>31</sup>

When domestic violence is reported to law enforcement, a "certain and decisive action" by police officers or sheriff's deputies would include arrest of the dominant aggressor at the scene of the crime or later by warrant if the abuser has fled, the issuance of an emergency protective order, and seizure of weapons. Once an accused batterer is arrested, decisive actions might include a special jail program for batterers until the defendant is cited and released. For instance, some counties house batterers in a separate unit from other defendants and begin a batterer intervention program in the jail. Swift action by the prosecution to bring charges against the defendant and timely court processing are also essential. Once the defendant pleads guilty or is convicted, he is placed in a batterer intervention program (BIP). Compliance with counseling would be closely monitored by the court, and defendants who drop out or miss too many sessions would be jailed or placed in an alternative intervention. For instance, drug-abuse treatment may be necessary before a person is able to complete the BIP.

California has some, but not all, of these components in place. A formal evaluation of California's BIP law could look at how well California does in holding abusers accountable with "certain and decisive" criminal-justice responses.

### ***Intimate Relationships Between Aggressors and Victims Make Prosecutions Difficult***

Domestic violence prosecutions present unique problems for district attorneys because of the complex psychology of abuser and abused. Many abused women do

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<sup>28</sup> Gondolf, E., "Batterer Program Participants Who Repeatedly Re-assault: Psychopathic Tendencies and Other Disorders," *Journal of Interpersonal Violence*, 1999.

<sup>29</sup> Davis, R. and Taylor, B., "Does Batterer Treatment Reduce Violence? A Synthesis of the Literature," *Women and Criminal Justice*, 10, 69-93, 1999; Gondolf, E., "Limitations of Experimental Evaluations of Batterer Programs," Review and critique sponsored by the National Institute of Justice, 2000.

<sup>30</sup> Babcock, J. and Steiner, R., "The Relationship Between Treatment, Incarceration, and Recidivism of Battering: A Program Evaluation of Seattle's Coordinated Community Response to Domestic Violence," *Journal of Family Psychology*, Vol. 13, No. 1, 1999, 46-59.

<sup>31</sup> See, e.g., Healey, K. et al., "Batterer Intervention: Program Approaches and Criminal Justice Strategies," National Institute of Justice, February 1998.

not appear in court to testify against their abusers or they refuse to press charges after making the original complaint.

When a survivor of abuse refuses to press charges, some jurisdictions such as Los Angeles go ahead with the prosecution under a "no drop" policy in domestic violence cases. Prosecutors may also use a domestic-violence expert witness when the victim is not cooperating. SB 1827 (Lockyer), enacted in 1994, allows prosecutors to refile an original misdemeanor complaint within six months of the first filing. This allows the prosecution to go ahead with the action should the victim decide to testify after all.

Some victims of abuse not only refuse to cooperate when the trial takes place, they actually testify on behalf of the accused batterer. In the past when this has happened, courts would often reach what is called a civil compromise. The defendant would pay damages to the victim and the charges would be dropped. Senator John Burton successfully authored legislation in 1997 (SB 115) to do away with civil compromises in domestic-violence cases.

To increase domestic-violence prosecutions and convictions, the Legislature since 1994-95 has given money to the state Department of Justice for grants to encourage city and county prosecutors to use more effective techniques. These techniques include assigning the same prosecutor to a case from beginning to end, an approach called "vertical prosecution" that can make the legal process less stressful for victims and make the prosecution more efficient.

The Department of Justice reports these grants have helped fund 47 programs statewide. According to the department, it does not collect data to tell us whether these grants have increased domestic-violence prosecutions and convictions. Since the department collects quarterly reports from its grantees, the department should consider ways to capture data on the effectiveness of this program, if the program survives proposed budget cuts.

### ***Domestic-Violence Courts***

A number of communities in California have domestic-violence courts, in which judges, prosecutors, defense attorneys and other court personnel specialize in these cases. In response to AB 2700 (Kuehl) of 1998, the Judicial Council surveyed and described these courts in California in a May 2000 report.<sup>32</sup> At that time, there were 39 courts in 31 counties. Some handled only criminal matters, some only civil, and others decided both criminal and civil matters. They took substantially different approaches to issuing restraining orders, gathering and sharing information, providing victim services, handling sentencing and other practices. The report did not evaluate the effectiveness of these courts. However, a December 2001 hearing by the Assembly Select Committee on Domestic Violence gathered testimony on numerous problems with these courts and proposed ways to improve them, including developing a standardized system of "best practices."

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<sup>32</sup> "Domestic Violence Courts: A Descriptive Study," Judicial Council of California, Administrative Office of the Courts, May 2000

A demonstration project in San Diego and Santa Clara counties to identify best practices in civil, juvenile and criminal court cases involving domestic violence was authorized in 2002 by AB 1909 (Cohn). Because state funding for these demonstration projects was not included in the bill, the counties may not be able to undertake this demonstration project.



## **Part VII: Family Law**

Many victims and their children who are affected by domestic violence turn to the courts for help in severing their abusive relationships. The vast majority of abused women have children at home.<sup>33</sup> When these women are involved in a divorce, the ways in which custody and visitation issues are handled can be critical. A recent report from the California Administrative Office of the Courts found that 76 percent of contested custody mediation cases in California involve allegations of domestic violence, regardless of the demographic characteristics of the parents.<sup>34</sup> This report also found that in 41 percent of all 2,500 custody cases surveyed, at least one parent reported that their child(ren) had witnessed violence between the parents.<sup>35</sup>

### **Custody**

The first milestone in making California's custody laws stronger with respect to domestic violence was the passage of AB 2700 (Roybal-Allard) in 1990. This measure required judges, for the first time, to consider any history of spousal abuse by a parent before determining custody rights for that parent. Since the passage of AB 2700, a series of progressive legislative changes to custody laws has taken place. These progressive legislative changes are chronicled in the appendix to this report under the Family Law/Child Custody section.

Assemblymember (now Senator) Sheila Kuehl had a number of bills in the 1990s building on AB 2700. AB 200 of 1997 required the court to carefully weigh what custody arrangement is in the best interest of the child, taking into account domestic violence and child abuse. If a parent who is alleged to have committed domestic violence or child abuse, or is a habitual user of alcohol or illegal drugs, is granted sole or joint custody, the judge must explain his or her reasoning on the record. Because AB 2700 put the burden on the battered spouse to prove that violence had occurred and that it adversely affected the children, Assemblymember Kuehl authored AB 840 in 1999. It creates a rebuttable presumption against granting custody to a perpetrator of domestic violence. Now the burden is on the violent spouse to show the court why it is in the child's best interest to award him or her custody.

In any contested child-custody case, the court has the authority to appoint a child-custody evaluator to help determine what arrangement is in the best interest of the

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<sup>33</sup> California Department of Health Services EPICgram, op. cit.

<sup>34</sup> "Domestic Violence in Court-Based Child Custody Mediation Cases in California," Judicial Council of California, Administrative Office of the Courts, Nov. 2002

<sup>35</sup> Ibid.

child.<sup>36</sup> AB 162 (Speier) of 1991 first established the right of parents to meet separately with these evaluators if domestic violence is a factor. SB 1995 (O'Connell) of 1996 required all court-appointed child-custody investigators to be trained concerning domestic violence. SB 433 (Johnson) of 1999 extended these training requirements to private child-custody evaluators who are not court appointed. SB 433 also requires by January 1, 2005, that all child-custody evaluators, whether court connected or private, be licensed physicians, psychologists, marriage and family therapists or clinical social workers, unless exempted by stipulation of the parents.

### ***Mediation***

California law requires mediation when custody or visitation between parents is in dispute.<sup>37</sup> Domestic violence advocates have worked to build protections into the mediation process for victims. One of the first protections came in 1988 with the passage of AB 2698 (Speier). AB 2698 gave the family court mediator the authority to meet separately with the parties, if one of the parties requested this due to domestic violence. In 1990 Senator Ayala authored SB 2812 to *require* separate mediation sessions when domestic violence is alleged.

In 1996, SB 1995 (O'Connell) became law. It mandated that the Judicial Council of California develop a protocol for handling domestic violence in court-based custody mediation. This protocol is designed to help mediators effectively screen for domestic violence and to identify and address the safety concerns of parents.<sup>38</sup> SB 1995 required that mediators and child custody evaluators undergo domestic violence training. It also clarified that any individual may be selected to act as a support person to the parties involved in mediation, and that no certification, training or other qualification is required. SB 2812, mentioned above, allowed for a support person to accompany the battered parent.

### ***Court Interpreters***

Many parties in criminal and civil legal actions in California are not fluent in English and need the assistance of an interpreter. In a criminal matter, a defendant, witness or victim has a constitutional right to a court interpreter at state expense. In civil actions, the party in need of an interpreter is expected to pay for this service. Since 1995, California law has authorized interpreters in civil actions related to domestic violence (SB 982, Solis). Payment for interpreter fees is waived under SB 982 for indigent parties. But there was a significant exception built into this bill: the courts and the state Judicial Council were only required to implement these requirements if funding is provided. After a number of intervening policy developments, funding was eventually identified.

In 1998, the Legislature directed the Judicial Council to establish a state-funded one-year pilot project to appoint interpreters in child custody and domestic violence proceedings (AB 1884, Cedillo). At the conclusion of that pilot, the Judicial Council

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<sup>36</sup> Family Code section 3111

<sup>37</sup> Family Code section 3170

<sup>38</sup> Ca. Rules of Court, rule 1257.2

issued a report to the Legislature.<sup>39</sup> That report found that the services of court interpreters improved the efficiency and the effectiveness of these proceedings.<sup>40</sup>

In the 2001-02 fiscal year, the Judicial Council was able to identify funding for indigent clients in family law and domestic violence cases in over 20 courts. In the 2002-03 fiscal year, \$1.6 million in grant monies were used to fund over 40 family law court interpreter programs.<sup>41</sup>

### **Visitation**

For many families, conflict and violence escalates after separation and the transfer of children from one parent to the other can be extremely dangerous. California law gives judges the authority to deny, suspend or order supervised visitation when a domestic violence restraining order has been issued.<sup>42</sup>

Judges often order a neutral person to supervise visitation when domestic violence has been present to try to protect abused spouses and their children. Because low-income families are usually unable to pay for supervised visitation services, AB 673 (Honda) was passed in 1999. AB 673 gave the Judicial Council the job of administering and distributing federal funds for supervised visitation and exchange services and other services for families in transition. Superior courts, family law divisions, are authorized to establish supervised visitation and exchange programs, if they can obtain federal funding through grants administered by the Judicial Council. The federal money comes from the federal welfare reform law passed in 1996. According to a February 2003 report by the Judicial Council, 36 of the 58 counties in California have these supervised visitation services.<sup>43</sup> The report points out that the federal funds have not been adequate to cover the demand for services.<sup>44</sup>

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<sup>39</sup> "Family Law Interpreter Pilot Program," Judicial Council of California, Administrative Office of the Courts, 2001.

<sup>40</sup> Ibid.

<sup>41</sup> E-mail message from Tamara Abrams, Judicial Council, Administrative Office of the Courts, Center for Families, Children, and the Courts, 5/2/03

<sup>42</sup> Family Code sections 3031 and 3100

<sup>43</sup> "California's Access to Visitation Grant Program for Enhancing Responsibility and Opportunity for Nonresidential Parents," Judicial Council of California, Administrative Office of the Courts, February 28, 2003

<sup>44</sup> Ibid.

## **Part VIII: Prevention**

The majority of California domestic-violence policies to date provide services and care after abuse has taken place, as well as criminal-justice strategies that focus on prosecuting and rehabilitating batterers. Not as much is being done to reduce and prevent domestic violence from occurring in the first place. This section will cover prevention efforts under way in California and ideas for future directions.

### **Family Violence**

Domestic violence and child maltreatment often occur in the same family. Treating the violence within these families is an evolving area for reform and research. In the past, domestic violence and child abuse were treated as separate phenomena and the public systems in place to respond to this abuse were separate. Often child protective services would remove the children from the home where there was domestic violence with the claim that the adult victim had failed to protect the children.

Many communities today are creating new responses to stop family violence, including a collaborative model in which domestic-violence organizations, child-welfare agencies, schools, medical facilities, the courts, and police, probation and parole agencies all work together to prevent further harm. SB 1745 (Polanco), Chapter 187 of 2002, requires the stakeholders listed above to develop protocols as to how they will cooperate in their responses to incidents of domestic violence in homes where children reside.

The federal government is funding a national study in six counties, including Santa Clara and San Francisco, to evaluate the effectiveness of this collaborative model. All six of the study sites are implementing expert recommendations compiled in a book by the National Council of Juvenile and Family Court Judges titled, *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice*.

In California, the state Victim Compensation and Government Claims Board is a key source of funding for services for victims of domestic violence and child maltreatment. It collects restitution funds from crime perpetrators and channels the money to victims and "derivative victims" (usually family members, including children) for needs such as housing relocation, security expenses, and mental-health counseling. The board works closely with victim-witness centers, usually located in district attorney's offices, throughout the state. Most victims access this fund by submitting a claim at the local victim-witness center.

In December 2002, the California Victim Compensation and Government Claims Board didn't have enough money to meet the claims filed. Hopefully this shortfall can be addressed without cutting back on vital victim's services.

Many children who witness abuse or are victims of abuse suffer serious life-long problems, and many grow to repeat this cycle of violence. Mental-health counseling for these children can begin to break this cycle. Influencing social norms through public prevention efforts can also help to change this paradigm.

### ***Evaluated Prevention Strategies***

A 1998 UCLA School of Public Health report reviewed published domestic-violence prevention efforts and other related public-health programs for the Domestic Violence Section of the California Department of Health Services.<sup>45</sup> This report reached the following conclusions about published prevention efforts:

- Ten-week counseling programs that serve children in homes where domestic violence has occurred show progress in helping them learn new skills and develop new attitudes about violence. But it's unclear how these changes are affecting their behavior.
- School instruction in conflict resolution and peer mediation skills to prevent violence have shown some promise, especially programs that build skills and use role playing. Some evaluations have shown mixed results, however, so it's important to fine-tune their content.
- Interactive school programs in preventing dating violence show promise in changing attitudes and behavior.
- Several studies point to the relationship between firearms and homicides in homes. Policies that limit gun ownership and possession have not been evaluated to determine whether they correlate with decreased domestic violence.
- Limiting access to alcohol may reduce domestic violence.

Looking to related public-health education campaigns such as smoking cessation, the UCLA authors point out the effectiveness of a multi-pronged strategy: to educate the public about the negative effects of smoking, to fund smoking prevention and cessation programs, and to increase the tax on cigarettes. If California were to undertake a public-health education campaign to prevent domestic violence on the scale of the state's smoking-cessation efforts, such an attempt would have to incorporate some, if not all, of the prevention strategies mentioned in the UCLA analysis. Some are being implemented now. Publicly funded mental-health counseling is available for some children who have witnessed domestic violence in their homes (see the "Family Violence" section above). Some schools offer instruction in domestic-violence and dating-violence prevention (see below). A few communities, including those in the Sacramento area, have experimented with public-education

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<sup>45</sup> Chekal, M. & Sorenson, S., "Domestic Violence Prevention: Published Evaluation Efforts, Lessons from Other Public Health Fields and Possible Directions," UCLA School of Public Health, May 1998.

media campaigns (see below). Some laws are designed to keep firearms out of the hands of batterers (see below).

### ***School-Based Programs***

One prevention measure that passed in 2001, AB 819 (Jackson), allowed use of School Safety and Violence Prevention Act funds for age-appropriate instruction in domestic violence, dating-violence prevention and interpersonal violence prevention. These school-safety funds, administered by the state Department of Education, are available to grades 8 through 12 and total \$82 million in 2002-03. The department is not able to report how many schools are receiving grants related specifically to domestic violence. Absent an administrative change by the department to track these funds with more specificity, legislation to keep better track of these school safety funds could be considered.

A few community groups, such as Break the Cycle in Los Angeles, are educating youth about dating abuse and domestic violence through education, outreach and free legal services. Break the Cycle educates 11,000 Los Angeles county youth, ages 12 to 22, each year in schools, community youth groups and juvenile detention facilities.<sup>46</sup>

### ***Statewide Media Campaign***

A sustained, statewide media campaign would be expensive, but should be carefully considered as an important component of a comprehensive prevention campaign. From 1998 to 2002, the California Endowment gave \$4 million to fund a domestic-violence public-awareness campaign conducted in Sacramento County and four surrounding counties.

Titled "Break the Silence on Domestic Violence," this multi-media public-awareness campaign was conducted in English, Spanish, Russian and Southeast Asian languages. At the conclusion of the first two years, telephone surveys of adults and teens in the region showed that the reach of the campaign was extensive and that personal accountability was on the rise. Additional impacts included one shelter (operated by Women Escaping a Violent Environment) having to double its crisis-line phone capacity from two to four lines, numerous employers adopting domestic-violence workplace-assistance policies, and all five local commercial television stations, the public television station and the Spanish-language station airing an hour-long program about domestic violence.<sup>47</sup>

### ***Gun Laws***

California and federal laws ban a person convicted of a felony or misdemeanor from firearm ownership, possession or purchase for life. State and federal laws also prohibit an individual subject to a domestic-violence restraining order from owning,

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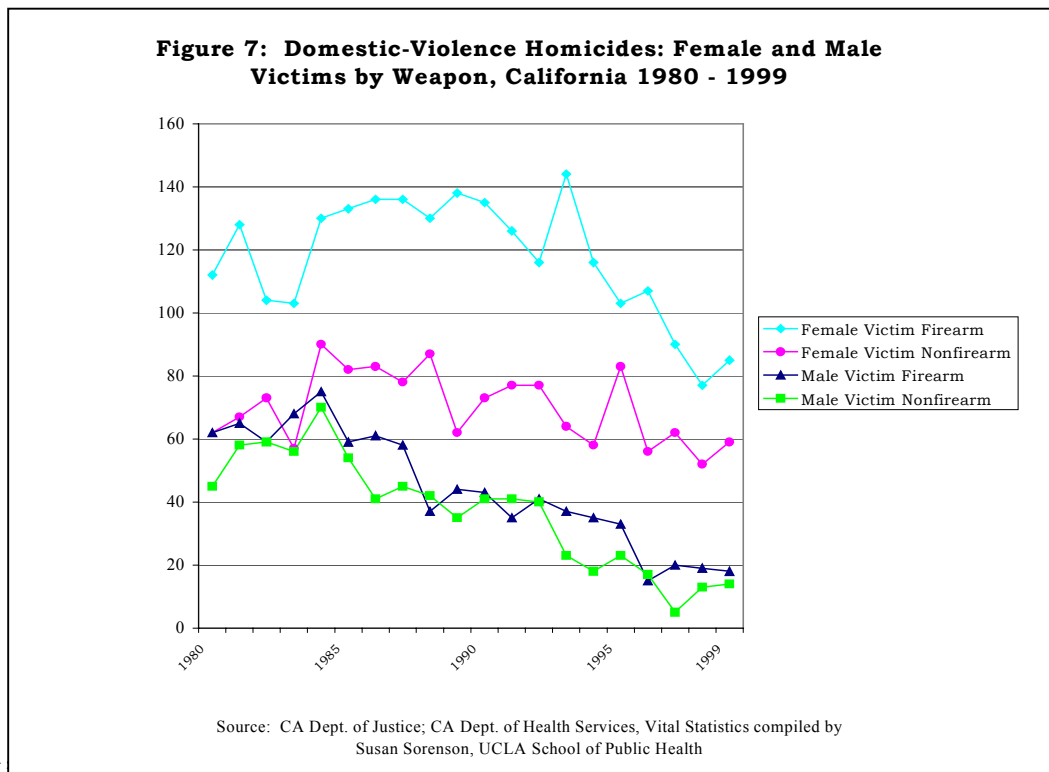
<sup>46</sup> Siegel, S., "No Use for Abuse," *California Monthly*, December 2002, p.40 ( [www.breakthecycle.org](http://www.breakthecycle.org))

<sup>47</sup> "Break the Silence on Domestic Violence Campaign, Replication Booklet Narrative," Public Media Center, San Francisco, 2002.

possessing or purchasing a firearm for the duration of the protective order.<sup>48</sup> Law enforcement is required to remove any firearms at the scene of a domestic-violence incident, or any firearms found after a consensual search.

Better enforcement of existing laws is the focus of a new effort by Attorney General Bill Lockyer. Since July 2002, Department of Justice (DOJ) agents use court records and DOJ databases to identify individuals who illegally possess a firearm due to a felony conviction or a domestic violence restraining order. This new tracking database was authorized in 2001 by SB 950 (Brulte). Search and arrest warrants are issued for the most dangerous individuals identified. As of a October 24, 2002 DOJ press release, DOJ had identified more than 310 individuals, arrested 20 and seized more than 190 weapons.

In response to widespread problems with local enforcement of restrictions on firearm possession, the state DOJ sponsored AB 2695 (Oropeza) of 2002. Under AB 2695, a statewide protocol will be developed for courts, prosecutors and local law enforcement agencies to help ensure that domestic-violence perpetrators do not possess firearms.



In 2001

domestic-violence restraining orders was 263, up from 112 in 1997. The names of individuals ineligible for firearms on this basis are recorded in the Domestic Violence Restraining Order System (DVROS) maintained by the state Department of Justice.

The Department of Justice also tracks overall purchase denials due primarily to past felony and misdemeanor convictions for *all* crimes. For instance, there were 3,607

<sup>48</sup> Law enforcement officers subject to a domestic-violence restraining order may carry a gun at work if they pass a psychiatric evaluation and get a court's permission.

overall denials in 2001. Some of these are due to domestic-violence-related convictions, but the department does not specifically track such denials.

Data from the state DOJ on reported intimate-partner homicides and the weapons used show that handguns are used in a majority of these murders. A few are carried out each year with a rifle or a shotgun. For instance, in 2000, 56 percent of these deaths were from handguns and 2 percent were from a rifle or a shotgun.<sup>49</sup>

Many researchers, such as Arthur Kellermann at Emory University, argue that the presence of a gun dramatically increases the chance that a domestic violence incident will end in murder. In California, firearms are used more often than other weapons to kill female victims, whereas guns and other weapons are used about equally in the homicides of male victims. Figure 7 depicts this data.

### ***Alcohol Consumption***

Numerous studies tell us that alcohol abuse is a risk factor for domestic violence.<sup>50</sup> UCLA researchers reviewed several international studies that show a relationship between a reduction in the supply of alcohol and a decline in “domestic disturbances” and “crimes against persons.”<sup>51</sup> From this the UCLA researchers speculate that limiting access to alcohol might reduce domestic violence. A Rutgers University economist recently concluded that an increase in the price of alcohol would limit access to alcohol and reduce wife abuse.<sup>52</sup> Because alcohol abuse is often present with intimate-partner abuse, strategies to reduce misuse of alcohol could be an important component of a public-health prevention campaign. Increasing the price of alcohol through taxes or fees is one way to reduce consumption that the Legislature might consider.

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<sup>49</sup> “Willful Homicide Crimes, 2000, Precipitating Event: Domestic Violence, Relationship of Victim to Offender by Type of Weapon,” Criminal Justice Statistics Center, California Department of Justice.

<sup>50</sup> See, e.g., Coker, A. et al., “Frequency and Correlates of Intimate Partner Violence by Type: Physical, Sexual, and Psychological Battering,” *American Journal of Public Health*, 90, 2000, 553-572.

<sup>51</sup> Chekal and Sorenson, op. cit.

<sup>52</sup> Markowitz, S., “The Price of Alcohol, Wife Abuse, and Husband Abuse,” *Southern Economic Journal*, 67 (2), 2000, 279 – 303.



## **Conclusion: Options for Action**

California communities and lawmakers have made significant progress in the last 30 years to expand and toughen California's response to domestic violence. Most of the changes are directed at improving services and protections to victims and holding more perpetrators accountable. Future directions could include:

- Strengthening existing services,
- Developing research projects to test the efficacy of California's policies,
- Improving statewide data collection, and
- Putting in place a proactive prevention strategy.

In the last 10 years, shelter funding has grown, but many shelters remain underfunded. Despite the increased state and federal dollars, abused women, children and men are turned away on a frequent basis. Many shelters are unable to provide legal services, transitional housing and job-placement assistance. Most agencies are unable to fund prevention programs.

This report highlights a number of areas where research and/or evaluation is warranted. For instance, in health care, California should consider evaluating the effectiveness of the law requiring health professionals to report to law-enforcement agencies suspected domestic violence. California could also encourage federal or private research entities to undertake some of these projects. Based on a draft of this report and other sources, the Crime and Violence Prevention Center within the state Department of Justice has developed a list of recommended domestic-violence research topics. See Appendix B for this list.

Data collection is another critical way to assess California's domestic-violence policies. Problems with data collection at various state agencies are identified in this report. Some important data, such as information about batterers placed in an intervention program, are not collected on a statewide basis, nor are they collected in a uniform manner at the county level. The state could consider ways to improve statewide data collection through an interagency data-collection task force or through legislative reform. The California Research Bureau's report of November 2002 also recommends improving data-collection systems.

Policy-makers may wish to do more to reduce and prevent domestic violence from occurring in the first place, especially given the dimensions of the social ills it causes. A proactive prevention strategy could include:

- Supporting and expanding public education and prevention projects such as interventions for children witnessing domestic violence in the home,
- Providing more school-based violence-prevention programs,
- Implementing a statewide media campaign,
- Providing better enforcement of policies limiting ownership and possession of firearms, and
- Implementing a strategy to reduce alcohol consumption.

## **Appendix A**

### **Recent Reforms in California's Domestic-Violence Laws**

This summary includes major bills passed since 1990.

#### **Funding**

- SB 5 (Presley) Chapter 420, 1993 raises the marriage license fee by \$4 to provide increased funding for domestic violence shelters. Shelters now receive \$23 from every marriage license issued.
- The Battered Woman Protection Act of 1994 [AB 167, (B. Friedman), Chapter 140] provided \$11.5 million per year for shelters and \$3.5 million per year to improve domestic violence prosecutions. This marked the first time substantial dollars were committed to domestic violence protection as part of the state budget.
- SB 350 (Lee), Chapter 9, 1997 establishes the state Office of Criminal Justice Planning (OCJP) as the agency to award federal Violence Against Women Act (VAWA) grant monies to strengthen law enforcement strategies, prosecution procedures and victim services.
- SB 185 (Bowen), Chapter 439 of 2001 requires the Maternal and Child Health (MCH) branch of the Department of Health Services to strengthen oversight and technical assistance to the shelters receiving state grants.
- AB 664 (Dutra), Chapter 707 of 2001 makes an emergency appropriation of \$2 million to OCJP to fund 10 shelters that were denied grants.
- SB 1894 (Escutia), Chapter 834 of 2002 requires MCH to fund domestic violence programs that had previously received funding, but were not selected for funding in 2000.

#### **Housing Assistance**

- AB 606 (Jackson), Chapter 584 of 1999 authorizes cash payments of up to \$2,000 from the state victim-witness fund for relocation expenses, up to \$1000 for improved residential security, or up to \$5000 for housing or vehicle expenses related to a permanent disability for adult victims of domestic violence. Provisions extended to children with AB 1017 (Jackson), Chapter 712, 2001.
- AB 1111 (Aroner), Chapter 147 of 1999 allows abuse survivors to apply with the welfare office for homeless assistance every 12 months.

#### **Restitution and Fines**

- AB 2439 (Archie-Hudson), Chapter 184 and SB 1545 (Lockyer), Chapter 183 of 1992 give courts the authority to order a convicted batterer to pay up to \$1,000 to a battered women's shelter or reimburse the victim for reasonable costs of

counseling. The fine was increased to \$5,000 by AB 93X (Burton), Chapter 28X of 1994.

### ***Confidentiality***

- SB 489 (Alpert), Chapter 1005, 1998; SB 1318 (Alpert), Chapter 562, 2000; and AB 205 (Leach), Chapter 33, 2000 allow domestic violence and stalking victims to use the Secretary of State's Office as their mailing address to keep their residence addresses confidential on all public records and legal documents, including voter registration forms and name changes.
- AB 1900 (Cardenas), Chapter 511, 1998, authorizes courts to keep names and addresses of victims and their family members confidential for interstate child support purposes.
- AB 1915 (Lowenthal), Chapter 80 of 2002 requires the Department of Motor Vehicles to provide a new set of license plates to a registered owner of a vehicle who appears in person and submits a completed application that includes evidence of domestic abuse.

### ***Death Review Teams***

- SB 1230 (Solis), Chapter 710, 1995 authorizes counties to establish interagency domestic violence death review teams. Requires the Department of Justice to develop a protocol for the development and implementation of these teams.

### ***Family Violence***

- AB 2826 (Daucher), Chapter 534 of 2002 expands the definition of "domestic violence" to include minors who have not been emancipated. Amends current law authorizing arrests without a warrant in certain domestic violence cases to specifically apply to assault and/or battery cases involving seniors.
- SB 1745 (Polanco), Chapter 187 of 2002 requires Child Protective Service agencies, law enforcement, prosecutors, child abuse and domestic violence experts, and relevant community-based organizations, in collaboration with one another, develop protocols as to how they will cooperate in their responses to incidents of domestic violence in homes where children reside.

### ***Funding for Victims' Services***

- AB 535 (Brown), Chapter 697 of 1998 allows victims of domestic violence to participate in the Victims of Crime program, even if the victim failed to cooperate with law enforcement, so long as the victim obtained a restraining order or failed to cooperate based on fear of retaliation.
- SB 1735 (Karnette), Chapter 629 of 2002 makes various changes in the Victims of Crime program to better serve victims of domestic violence. For instance, compensation would be allowed even though a police report was not filed, if there is other evidence to prove a domestic-violence crime was committed.

- SB 1867 (Figueroa), Chapter 630 of 2002 prevents victims of sexual assault and domestic violence from being denied assistance under the Victims of Crime program on grounds of participation or involvement in the crime, or on grounds of failing to cooperate with law enforcement if a victim of domestic violence resumes living with the perpetrator after the crime.
- AB 2462 (Bates), Chapter 479 of 2002 provides that a child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed to have sustained physical injury, regardless of whether the child has witnessed the crime, for purposes of reimbursement from the Victims of Crime program.

### ***Health Care***

- AB 890 (B. Friedman), Chapter 1234 of 1993 requires health care providers to get training in the detection of domestic violence. Hospitals and clinics also are required to adopt written policies on how to treat battered people.
- AB 1652 (Speier), Chapter 992 of 1993 requires health practitioners to report suspected domestic violence to law enforcement (referred to as the mandatory reporting law).
- SB 857 (Thompson), Chapter 860 of 1995 establishes two hospital-based training centers to train medical professionals on how to perform medical evidentiary examinations of victims of child abuse, sexual assault, elder abuse and domestic violence.
- SB 502 (Ortiz), Chapter 579 of 2001 requires the state OCJP to establish a uniform approach and reporting form(s) for providing medical examinations, documentation and evidence collection for victims of domestic violence, elder and dependent adult abuse.
- SB 580 (Figueroa), Chapter 249 of 2002 requires OCJP to develop a standard state form for health practitioners to use in reporting suspected crimes of abuse to law enforcement.

### ***Insurance Discrimination***

- AB 1973 (Figueroa), Chapter 603 of 1995 forbids health insurers and disability insurers from denying or restricting coverage to domestic violence survivors.
- AB 588 (Figueroa), Chapter 845 of 1997 protects domestic violence victims from discrimination by property and casualty insurers.
- AB 649 (Napolitano), Chapter 176 of 1997 protects abused people from discrimination by life insurance companies.

### **Prevention**

- AB 819 (Jackson), Chapter 735 of 2001 provides age-appropriate instruction in domestic violence, dating-violence prevention and interpersonal violence prevention to school sites receiving School Safety and Violence Prevention Act funds.
- SB 1505 (Kuehl), Chapter 354 of 2002 requires that Child Protective Services workers receive training on dating violence to help them identify when a teen is being abused in a dating relationship.

### **Welfare Reform**

- AB 1542 (Ducheny, Ashburn, Thompson and Maddy), Chapter 270 of 1997 requires the state Department of Social Services to issue regulations to guide counties in handling cases in which welfare recipients are past or present victims of abuse; requires counties to train welfare personnel working with abused clients.

### **Workplace**

- AB 68X (Alpert), Chapter 29X, 1994, authorizes employers to obtain restraining orders against individuals who are harassing, threatening or stalking an employee.
- SB 165 (Solis), Chapter 411, 1998, permits persons who are forced to leave their employment because of domestic violence to receive unemployment insurance.
- SB 56 (Solis), Chapter 340, 1999, prohibits all employers from discharging or otherwise discriminating against workers who take time off from work for reasons related to domestic-violence judicial actions, so long as the worker provides the employer with reasonable notice.
- AB 2357 (Honda), Chapter 487, 2000, allows workers who work for employers with 25 or more employees to take an unpaid leave up to 12 weeks annually (consistent with the Family and Medical Leave law) for the following reasons related to domestic violence: seeking medical attention, receiving legal assistance, obtaining services from a domestic violence shelter or rape crisis center, undergoing counseling and implementing a safety plan.

### **Batterer Treatment Programs**

- Under AB 93X (Burton), Chapter 28X of 1994, batterers placed on probation must remain on probation for three years and successfully complete a weekly 90-minute counseling session for at least a year. In 1995, the weekly counseling session was expanded to two hours under SB 169 (Hayden), Chapter 641.
- AB 1886 (Lowenthal), Chapter 544 of 2000 requires facilitators of batterers' treatment programs to meet minimum training and continuing education requirements.

- AB 217 (Pavley), Chapter 2 of 2002 requires defendants who are ordered to complete a batterer's treatment program to attend consecutive weekly sessions and to complete the program within 18 months unless the court finds good cause to modify these requirements.

### ***Battered Woman Syndrome***

- AB 785 (Eaves), Chapter 812 of 1991 permits the admission of "battered woman syndrome" as evidence in a criminal trial when a defendant who has been battered is accused of committing violence against the batterer. Evidence Code section 1107 was expanded by SB 1944 (Solis), Chapter 1001 of 2002 to include the admissibility of evidence about the effects of domestic violence.
- AB 2401 (Speier), Chapter 296 of 1992 requires domestic violence training for Board of Prison Terms commissioners making parole release decisions.
- SB 499 (Burton), Chapter 652 of 2000 requires the Board of Prison terms to consider evidence of battered woman syndrome when reviewing cases for parole if the cases were decided before the enactment of AB 785.
- SB 799 (Karnette), Chapter 858 of 2001 allows women who were convicted of homicide prior to the enactment of AB 785 to bring a writ of habeas corpus when there is a reasonable probability that the result of the case would have been different had evidence of the effects of domestic violence been admissible in the original trial.

### ***Domestic Violence Courts***

- AB 2700 (Kuehl), Chapter 703 of 1998 requires the Judicial Council to compare and evaluate domestic violence courts now operating in a number of counties in California and other states and to report its findings to the Legislature by March 1, 2000.
- AB 1909 (Cohn), Chapter 192 of 2002 authorizes superior courts in San Diego and Santa Clara counties, and any other willing county, to develop a demonstration project to identify the best practices in civil, juvenile and criminal court cases involving domestic violence. Funding for these demonstration projects was not included in the bill. If funding is found and the Superior Courts do participate in this demonstration project, then they must report their findings and recommendations to the Judicial Council and the Legislature by May 2004.

### ***Criminal Enforcement***

- SB 1827 (Lockyer), Chapter 169 of 1994, provides that orders terminating misdemeanor domestic violence actions based on failure of the complaining witness to appear shall not prevent any other prosecution of the same offense, if the action is refiled within six months of the original dismissal.
- SB 169 (Hayden), Chapter 641 of 1995 eliminates the option of "diversion" for domestic violence defendants in criminal cases.

- SB 591 (Solis), Chapter 246 of 1995 encourages the arrest of the abuser in domestic violence cases and discourages the arrest of both parties. SB 1944 (Solis), Chapter 1001, 2000, clarifies that law enforcement officers should arrest the “dominant aggressor” in a domestic violence situation rather than arresting both parties.
- AB 2068 (Richter), Chapter 416 of 1996 creates a new exception to the hearsay rule allowing the admissibility of statements threatening physical injury made to a victim who is now unavailable as a witness.
- AB 2116 (Alby), Chapter 131 of 1996 allows misdemeanor warrantless arrests for assaults and batteries against a spouse, a cohabitant or the parent of the offender’s child which took place outside the presence of an officer, if the officer has “reasonable cause” to believe the crime took place. SB 1470 (Thompson), Chapter 182, 1998, expands this law to include former spouses, former cohabitants, engaged or formerly engaged persons, or other persons related to the suspect. AB 2003 (Shelley), Chapter 47 of 2000 adds a dating relationship to the list of personal relationships.
- AB 2170 (Knox), Chapter 851 of 1996 requires suspects arrested for domestic violence to appear before a magistrate rather than be cited and released.
- AB 2448 (Alpert), Chapter 375 of 1996 directs the San Diego Association of Governments to study domestic-violence law-enforcement data and make a report to the Legislature.
- SB 1876 (Solis), Chapter 261 of 1996 and SB 1682 (Solis), Chapter 707 of 1998 allow prosecutors to introduce evidence of prior acts of domestic violence by a defendant against other victims as long as the violence has occurred in the last 10 years and isn’t hearsay evidence. AB 2063 (Zettel), Chapter 97 of 2000 expands the definition of prior acts of domestic violence to include abuse against an elder or a dependent adult.
- SB 115 (Burton), Chapter 18 of 1997 eliminates the court practice of reaching a civil compromise in which an accused batterer pays damages to the victim rather than face prosecution.
- AB 477 (Cohn), Chapter 82 of 2001 requires a defendant in a domestic violence case to be present in court for arraignment and sentencing. Current law generally does not require the defendant’s presence for misdemeanor actions.

### ***Firearms***

- AB 1753 (T. Friedman), Chapter 1180 of 1990 prohibits a person under a domestic violence restraining order from *obtaining* a gun.
- AB 242 (Alpert), Chapter 600 of 1993 bans a person convicted of spousal abuse, stalking or violating a domestic violence restraining order from *owning or possessing* a firearm for ten years.



*California's Response to Domestic Violence*  
*June 2003*

- SB 1278 (Hart), Chapter 871 of 1994 gives judges the authority to disallow batterers subject to a restraining order from *owning or possessing* a firearm while the restraining order is in effect.
- SB 1682 (Solis), Chapter 707 of 1998 expands the information available on the state's computerized restraining order registry maintained by the state Department of Justice, to include gun restriction information.
- SB 218 (Solis), Chapter 662 of 1999 *prohibits* an individual subject to a domestic violence restraining order from owning, possessing or purchasing a firearm for the duration of the protective order. Makes violation of this prohibition a misdemeanor. Requires law enforcement to remove any firearms at the scene of a domestic violence incident, or any firearms found after a consensual search.
- SB 950 (Brulte), Chapter 944 of 2001 establishes the "Prohibited Armed Persons File" database in the Department of Justice.
- AB 469 (Cohn), Chapter 483 of 2001 requires law enforcement officers responding to a call for help to ask whether a firearm or deadly weapon is present, to note the response on the incident report, and to confiscate the weapon, if any.
- AB 2695 (Oropeza), Chapter 830 of 2002 instructs the attorney general to develop a protocol designed to facilitate the enforcement of existing domestic-violence restrictions on firearms.
- SB 1807 (Chesbro), Chapter 833 of 2002 expands the definition of "consensual" search by adding any "lawful" search for the mandated seizure of firearms at the scene of a domestic violence incident. Makes it easier for the state to retain these weapons when owners seek their return in court and provides guidelines for the return of a weapon by the court.

### ***Release from Jail***

- SB 1983 (Haynes), Chapter 1060 of 1996 allows local governments to notify a crime victim, upon request, when the suspect or defendant is released from a local jail, including when released on bail.
- AB 139 (Poochigian), Chapter 101 of 1997 expands the notice requirement for victims, family members or witnesses living within 100 miles, instead of 25 miles, of where a violent felon is paroled from state prison.

### ***Restraining Orders***

- AB 1850 (Nolan), Chapter 995 of 1993 *allows* police to arrest without a warrant people who violate restraining orders even if the officer was not present to witness the violation. SB 218 (Solis), Chapter 662 of 1999 *requires* police to make such an arrest if the officer has probable cause to believe the violation occurred.
- AB 3034 (Solis), Chapter 872 of 1994 requires each county to immediately enter restraining orders in domestic violence cases into the statewide California Law Enforcement Telecommunications System (CLETS).
- SB 591 (Solis), Chapter 246 of 1995 allows the issuance of mutual restraining orders only under limited circumstances. Makes sure new arrest policies are incorporated into the written policies and standards for officers' responses to domestic violence calls.
- AB 878 (Rogan), Chapter 598 of 1995 allows courts to issue domestic violence restraining orders to stop stalking, annoying phone calls or the destruction of personal property.
- AB 935 (Speier), Chapter 907 of 1995 allows municipal court judges to issue restraining orders when superior court judges cannot respond in a timely manner.
- AB 1531 (Shelley), Chapter 187 of 1998 requires a court or law enforcement to enter a criminal-court protective order into CLETS within one business day of issuance.
- AB 2177 (Kuehl), Chapter 702 of 1998 insures that protective orders issued by other states or jurisdictions will be enforced by California authorities in the same manner that they would enforce an order issued in California. Amended by AB 731 (Wayne), Chapter 816 of 2001 adopting the Uniform Interstate Enforcement of Domestic Violence Protective Orders.
- AB 207 (Thomson), Chapter 367 of 1999 allows court authorization to record confidential communications, such as cellular phone conversations, as part of a domestic-violence restraining order. These recorded communications could later be used as evidence in court to prove the violation of a restraining order by means of a harassing communication.

*California's Response to Domestic Violence*  
*June 2003*

- SB 66 (Kuehl), Chapter 572 of 2001 improves coordination of the system for issuing restraining orders in family, juvenile and criminal court to give judges all relevant history concerning an individual against whom the restraining order is sought. Implementation of this measure is delayed until adequate funds are available.
- AB 160 (Bates), Chapter 698 of 2001 clarifies the precedence of restraining orders in pending criminal domestic-violence cases over other civil orders, and establishes a protocol for the coordination of multiple orders. Requires that modifications of restraining orders are entered into CLETS.
- AB 362 (Corbett), Chapter 110 of 2001 defines “dating relationship” in the Domestic Violence Protection Act, thereby clarifying that dating individuals are included in the protections afforded by domestic violence restraining orders.
- AB 2030 (Goldberg), Chapter 1009 of 2002 allows the waiver of fees for service of protective orders for victims of domestic violence, stalking, and sexual assault.
- SB 1627 (Kuehl), Chapter 265 of 2002 insures that the information contained in CLETS is complete, accurate and entered into the system within one day, so that courts and law enforcement agencies have the information they need to make informed decisions.

***Spousal Rape***

- AB 187 (Solis), Chapter 595 of 1993 makes all forms of rape, including spousal rape, essentially the same crime.

***Stalking***

- SB 2184 (Royce), Chapter 1527 of 1990 and SB 1342 (Royce), Chapter 627 of 1992 establish the crime of stalking in California, making it the first state in the nation to make stalking a crime.
- SB 1796 (Leslie), Chapter 825 and AB 2351 (Hertzberg), Chapter 826 of 1998 address the crime of “cyberstalking” by updating stalking and harassment laws to include stalking by electronic technologies.
- AB 1284 (Jackson), Chapter 703 of 1999 allows authorities to jail suspected stalkers without bail if they violate a restraining order, and imposes notification and bail conditions in stalking cases.
- SB 580 (Lewis), Chapter 561 of 2000 requires that when a person convicted of stalking is released from custody, the inmate cannot be paroled within 35 miles of the victim’s residence or place of employment under specified circumstances. Also requires notice to the victim if there is a change in parole status or location. Existing law already required notice to the victim when the inmate is released from custody.

- SB 1539 (Lewis), Chapter 564 of 2000 requires parole officers to receive training in managing parolees convicted of stalking.
- SB 1320 (Kuehl), Chapter 832 of 2002 revises California's stalking statute to make it easier to prosecute the crime of stalking.

### ***Training for Law Enforcement and Court Personnel***

- SB 132 (Watson), Chapter 965 of 1995 requires law enforcement officers who typically respond to domestic violence calls to complete an updated course on domestic violence every two years. (See "Part II: Early Milestones in Domestic Violence Legislation" for the original training bill, SB 1472 (Watson), Chapter 1609 of 1984.)
- AB 2819 (Caldera), Chapter 695 of 1996 establishes judicial training programs for court personnel involved in domestic violence matters, such as judges, referees, commissioners and mediators.
- SB 1995 (O'Connell), Chapter 761 of 1996 establishes domestic violence training for court-appointed child-custody evaluators and mediators. SB 433 (Johnson), Chapter 932 of 1999 extends the training requirements to private child-custody evaluators.

### ***Family Law/Child Custody***

- AB 2700 (Roybal-Allard), Chapter 610 of 1990 requires judges to consider any history of spousal abuse by a parent before determining child-custody rights for that parent.
- SB 2812 (Ayala), Chapter 994 of 1990 requires separate mediation sessions when domestic violence is alleged and allows for a support person to accompany the battered parent.
- AB 162 (Speier), Chapter 410 of 1991 establishes the right of parents to meet separately with child custody evaluators if domestic violence is a factor.
- SB 804 (Boatwright), Chapter 392 of 1992 adds provisions to the Uniform Child Custody Jurisdiction Act to protect an abused parent and his or her children when there is a custody dispute between parents residing in different states.
- AB 356 (Snyder), Chapter 320 of 1994 clarifies that judges have the authority to suspend or deny visitation in domestic violence cases. When visitation is granted, judges are required to specify the time, day, place and manner of transfer of the child.
- SB 1995 (O'Connell), Chapter 761 of 1996 mandates that the Judicial Council of California develop a protocol for handling domestic violence in court-based custody mediation. Clarifies that any individual may be selected to act as a support person to the parties involved in mediation, and that no certification, training or other qualification is required.

- AB 2474 (Kuehl), Chapter 835 of 1996 requires judges when making custody decisions to consider whether a parent seeking custody has committed abuse against the other parent, against another intimate partner or against a child who has been in the abuser's care.
- AB 200 (Kuehl), Chapter 849 of 1997 tightens the law regarding custody decisions in cases of domestic abuse, child abuse or substance abuse by requiring the court to carefully weigh what custody arrangement is in the best interest of the child. A judge must explain his or her reasoning on the record if a parent who is alleged to have committed such abuse is granted sole or joint custody.
- SB 564 (Solis), Chapter 396 of 1997 permits the court in a Domestic Violence Prevention Act action to issue a temporary custody or visitation order to unmarried parents who have legally established a parent-child relationship.
- AB 1837 (Alquist), Chapter 229 of 1998 authorizes courts to require a minor child to participate in counseling if the parents are involved in a custody or visitation dispute and there is a history of domestic violence in the last five years.
- AB 2386 (Bordonaro), Chapter 705 and AB 2745 (Cardoza), Chapter 704 of 1998 prevent court-ordered custody or unsupervised visitation by a parent who has been convicted of murdering the child's other parent, unless the defendant was the victim of domestic violence by the decedent. Other states have adopted similar legislation, often referred to as Lizzie's law.
- SB 433 (Johnson), Chapter 932 of 1999 requires by January 1, 2005 that all child custody evaluators, whether court connected or private, be a licensed physician, psychologist, marriage and family therapist or clinical social worker, unless exempted by stipulation of the parents.
- AB 673 (Honda), Chapter 1004 of 1999 authorizes family law divisions of superior courts to establish supervised visitation and exchange programs and charges the Judicial Council with administering and distributing the federal grants available to fund these services.
- AB 840 (Kuehl), Chapter 445 of 1999 creates a presumption against awarding custody of a child to a person who has committed acts of domestic violence within the previous five years.

### ***Spousal Support***

- AB 808 (Strom-Martin), Chapter 284 of 1999 requires courts to consider emotional distress resulting from domestic violence when making a spousal support award.
- SB 1221 (Romero), Chapter 293 of 2001 creates a "rebuttable presumption" that an award of spousal support should be eliminated if the spouse receiving the spousal support was convicted within the last five years of spousal abuse. The court may consider a convicted spouse's history as a victim of domestic violence as a condition for rebutting the presumption.

### **Court Interpreters**

- SB 982 (Solis), Chapter 888 of 1995 authorizes interpreters in domestic violence civil cases.
- AB 1884 (Cedillo), Chapter 981 of 1998 establishes a state-funded one-year pilot project to appoint interpreters in specified child custody and domestic violence proceedings.

### **Juvenile Court**

- AB 2647(Kuehl), Chapter 1139 of 1996 is a multi-faceted law to protect children from the effects of domestic violence. It gives courts the authority to remove a battering parent or guardian from the home, prohibits visitation by the parent if it would jeopardize the safety of the child and creates a “safety plan” option in cases where the child is about to be removed from the home of a parent who is abused. It requires domestic violence training for personnel involved in such juvenile court cases.
- SB 326 (Leslie), Chapter 706 of 1998 helps protect minors from physical and mental abuse by clarifying the role of juvenile courts in enforcing restraining and protective orders.
- AB 1129 (Liu), Chapter 713 of 2001 authorizes the juvenile dependency court, when issuing a restraining order protecting a child from abusive behavior by any parent, guardian, or current or former member of the child’s household (or the parent’s boyfriend/girlfriend not living in the home), to also issue an order protecting the parent, guardian or current caretaker of the child from the abusive person.

### **Civil Remedies**

- SB 924 (Petris), Chapter 602 of 1995 lengthens the statute of limitations for personal injury lawsuits based on domestic violence to three years, instead of one year, from the date of the last incident of domestic abuse.
- SB 1939 (Alpert), Chapter 123 of 1998 extended the three-year statute of limitation for personal injury lawsuits based on domestic violence to three years from the date the plaintiff discovered or should have discovered that injuries resulted from the abuse.
- AB 1928 (Jackson), Chapter 842 of 2002 allows a victim of gender-motivated violence (including domestic violence or sexual assault that is gender-motivated) to bring a civil action for compensatory and punitive damages against the attacker(s). Civil actions may be brought within three years of the offense, or within eight years after the victim reaches age 18, whichever is later. A victim may recover attorney's fees, a remedy not available in most tort actions.

*California's Response to Domestic Violence*  
*June 2003*

- AB 1933 (Reyes), Chapter 193 of 2002 creates a statutory tort for injuries resulting from domestic violence. Provides that a person found liable under its provisions would be subject to general, special, and punitive damages, and that the court would have the discretion to award other relief to a prevailing plaintiff, including an injunction, costs, and reasonable attorney's fees.

## **Appendix B**

### **Domestic Violence Research and Policy Agenda\***

1. In order to improve research capacity and strengthen ties between researcher and practitioners, we should develop a coordinated research strategy by government agencies. State data collection systems should be improved and data should be regularly shared across agencies concerned with domestic violence.
2. We need a statewide crime victimization survey, modeled on the national crime victimization survey. The national survey was recently redesigned to capture more reporting of victimization. California needs its own survey because of the diversity of its population.
3. We need to examine risk factors, such as income; age; education level; childhood victimization; and alcohol or other drug abuse; presence of firearms in the home, etc, related to victimization. Conversely, there is a need to study protective factors, such as social support.
4. We need studies that examine discretionary processes in the criminal justice system. For example, what are the dynamics of police, prosecutorial and judicial decision-making?
5. We need to carefully evaluate California's domestic violence shelter programs. These programs have never been systematically studied.
6. We need to investigate the factors associated with service-seeking behavior, including delaying seeking services or not seeking services. This research will enable us to better identify barriers to service seeking.
7. We need research on benefits of non-shelter based formal aspects of support (e.g. clergy) and informal aspects of support (e.g. friends, co-workers).
8. We need rigorous evaluations of batterer's intervention programs. Much of the current research is limited by methodological flaws which include lack of comparison groups; no differentiation of self-referrals from court-ordered participants; high drop-out rates that are not taken into account when calculating success rates; and lack of long-term follow-up.
9. We need research on the efficacy of restraining orders in California, including whether our statutes and policies are successful in preventing future violence. This research should include a review of statutes and policies in other states.
10. We need rigorous evaluations of programs designed to prevent intimate partner violence, including school-based education programs, media campaigns, and legal changes intended to deter violence against women.
11. Intimate partner violence outcomes should be included in evaluations of programs designed to prevent delinquency; substance abuse, teenage pregnancy, gang involvement and general violence.
12. Existing data sets (national, state and local) should be identified so that secondary analyses of violence against women can be conducted.

\* This agenda was developed by the Crime and Violence Prevention Center, state Department of Justice. It is based upon meetings and consultation with domestic violence researchers and practitioners and a review of policy-related domestic violence literature.