

# **DOMESTIC VIOLENCE FATALITY REVIEW**

**AN ANALYSIS OF  
OVER A DECADE OF  
DOMESTIC VIOLENCE FATALITIES IN  
ORANGE COUNTY, CA:  
2006-2017**

**PUBLISHED BY THE  
ORANGE COUNTY DOMESTIC VIOLENCE DEATH REVIEW TEAM  
FEBRUARY 2022**

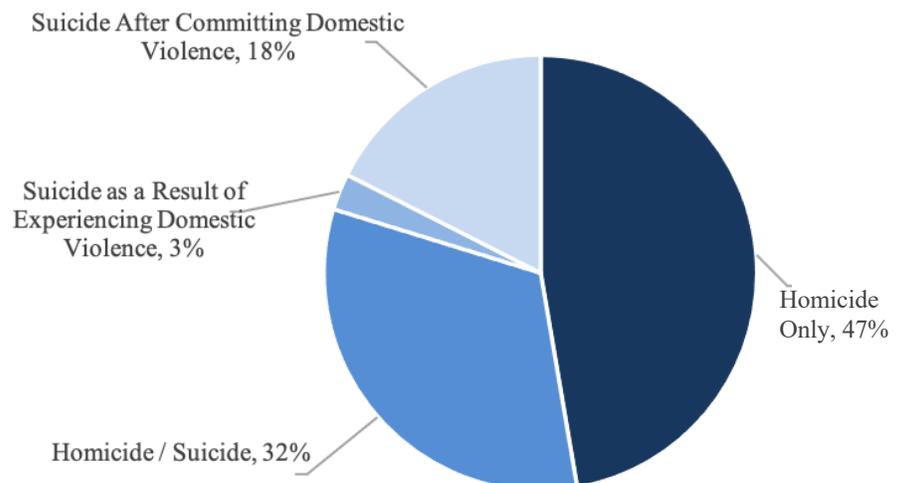
## EXECUTIVE SUMMARY

The Orange County Domestic Violence Death Review Team (DVDRT) analyzed county coroner case files from 2006 to 2017, after prosecutions concluded, reviewing each case and life lost to determine trends in domestic violence from which to develop recommendations for community prevention and intervention initiatives to reduce and eradicate domestic violence. This executive summary includes some of the trends discovered by the DVDRT. For the purposes of this summary, the DVDRT has defined domestic violence fatalities as “deaths caused by an intimate partner.” If additional fatalities occurred outside of the intimate partner relationship while the perpetrator committed the intimate partner homicide, these fatalities were also deemed domestic violence fatalities.

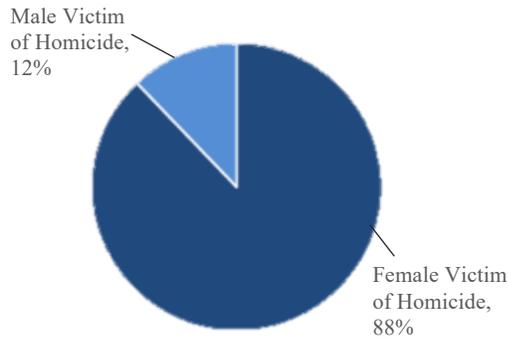
The DVDRT’s review of cases for the 2006 to 2017 period concerned 113 domestic violence fatalities. However, this is likely a significant undercounting of actual domestic violence-related fatalities. Some domestic violence homicides are mistakenly classified as “accidental,” are not referred to our DVDRT, or never prompt criminal charges or prosecution. We must assume that the following statistics reflect only part of the problem.

### Homicides and Suicides

- 47% of the domestic violence fatality cases we reviewed were homicide only.
- The remaining cases involved suicide by one of the parties. Most of these suicides were males who killed their female intimate partners before taking their own lives.
  - 32% of the cases we reviewed were homicide-suicides.
  - 18% of the cases referred to our DVDRT involved the abusive partner committing suicide after committing domestic violence.
  - 3% of cases involved victims of domestic violence taking their own life in light of the abuse they were suffering.



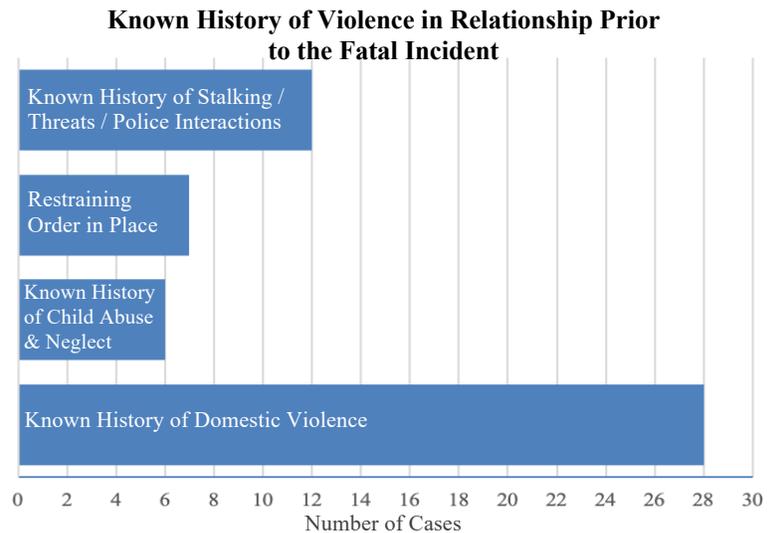
## Most Domestic Violence Homicides Committed by Men Against Women



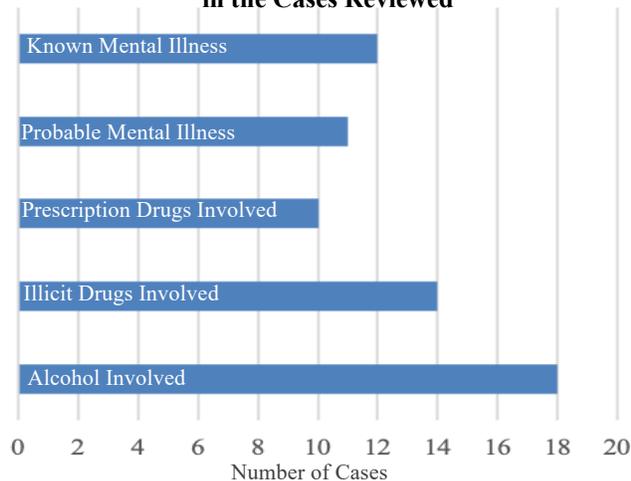
- When comparing the sex of all intimate partner violence homicide victims, 88% of homicide victims identified as female whereas 12% of homicide victims identified as male.
- Of the 48 male deaths reviewed, approximately 75% were due to suicide and approximately 15% of male victims were murdered by a female partner.

## A History of Violence and/or the Presence of Substance Abuse or Mental Illness Indicate Possible Areas for Earlier Intervention

- Often, there are warning signs before domestic violence turns fatal. The most common sign is prior physical abuse, but non-physical abuse—including threats and jealousy—are also indicators. While these signs are identifiable in many cases, often these behaviors go unreported. This is exemplified in Orange County where just under half (46%) of intimate partner fatality cases involved some known history of violence, yet only 9% of these cases had a restraining order in place.



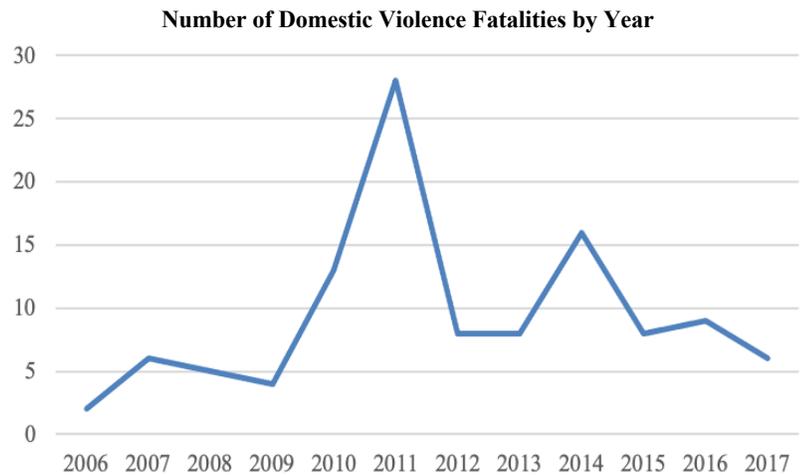
## Reports of Substance Abuse and Mental Illness in the Cases Reviewed



- In many of the fatal incidents reviewed, mental illness and/or substance abuse was experienced by at least one of the parties. The prevalence of mental illness and/or substance abuse demonstrate possible missed opportunities for earlier intervention by medical personnel or other professionals.

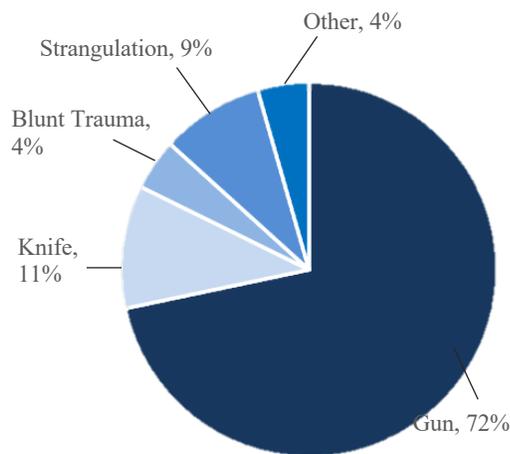
## Uptick of Violence in 2010 and 2011 Potentially Associated with Orange County’s Slow Recovery From the 2008 Financial Crisis

- A significant increase in domestic violence fatalities occurred in Orange County during 2010 and 2011. Following the 2008 financial crisis, unemployment, financial instability, and other stressors that continued into 2010 and 2011 likely contributed to this increase in intimate partner violence. Eight cases reported known financial trouble or job loss triggering the fatal violence, factors that are likely present in additional cases but are unreported.



- The DVDRT also considered how society’s emphasis on maintaining family units may be why people do not report intimate partner violence if it is seen as shameful or embarrassing and a threat to the family structure. A divorce, custody dispute, or some significant familial change that breaks up this idealized nuclear family can exacerbate intimate partner violence. Significantly, in 32% of our cases the fatal incident followed a recent divorce, separation, affair, and/or child custody dispute.

## Causes of Death



- Following Orange County data and analysis, this report provides in-depth explanations and recommendations regarding firearm fatalities and strangulation because so many fatalities are caused by firearms or strangulation. More education, intervention, and legislation are warranted, as detailed in the report.
- Most people are aware of the gun violence epidemic in the United States, a threat that is magnified in the domestic violence context, where access to firearms in the home increases fatality rates 500%. Orange County is no stranger to gun violence in the home, and firearms were used in 72% of fatalities in our review.
- 10 of the 113 intimate partner violence fatalities that occurred in Orange County between 2006 and 2017 were caused by strangulation. This 9% figure is significant and deserves to be studied as a lethality risk and cause. Up to 68% of abuse survivors will be victims of near-fatal strangulation by their partner. Victims of strangulation face a 750% increase in later homicide-related death.

## ORANGE COUNTY DVDRT MEMBERS

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## I. INTRODUCTION.

The common phrase “home is where the heart is” conjures warm feelings in many households, and the public health direction to stay at home to prevent the spread of COVID-19 similarly presumes that the home is safe. However, in the United States, the home is an incredibly dangerous place for many. According to the National Domestic Violence Hotline, one in four women will suffer severe physical violence by an intimate partner in their lifetime.<sup>1</sup> Domestic violence is defined by law as abuse or threats of abuse perpetrated against an individual with whom the perpetrator is or has been in an intimate relationship with (married or domestic partners, dating or used to date, live or lived together, have a child together, and/or are closely related by blood or marriage).<sup>2</sup> Survivors of such abuse are significantly more likely to be re-victimized, most commonly by the same intimate partner.<sup>3</sup> Repeat intimate partner violence can turn fatal—particularly for women.<sup>4</sup> Male intimate partners are responsible for nearly half of the female homicides in the United States over the past ten years.<sup>5</sup>

For this report, the Orange County Domestic Violence Death Review Team (DVDRT) has reviewed over a decade worth of cases. We have analyzed this data through a lens of prevention and accountability. Every life lost due to intimate partner violence is a call for change. There are many ways to describe relationship violence. In this report, you may see an interchanging of “domestic violence” and “intimate partner violence.” Intimate partner violence is domestic

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<sup>1</sup> *Domestic Violence Statistics*, NAT’L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/resources/statistics/> (last visited Mar. 26, 2021).

<sup>2</sup> CAL. FAM. CODE § 6211.

<sup>3</sup> *Domestic Violence Statistics*, *supra* note 1.

<sup>4</sup> *Disturbing Data Shows How Often Domestic Violence Turns Deadly*, PBS NEWS HOUR (Dec. 10, 2018, 6:25 PM), <https://www.pbs.org/newshour/show/disturbing-data-shows-how-often-domestic-violence-turns-deadly>.

<sup>5</sup> James Alan Fox & Emma E. Fridel, *Gender Differences in Patterns and Trends in U.S. Homicide, 1976–2015*, 4 VIOLENCE & GENDER 37, 40 (2017).

violence by a current or former spouse or partner in an intimate relationship against the other spouse or partner. In this report, the Orange County DVDRT defines domestic violence fatalities as deaths caused by an intimate partner.

We hope this report will be used to improve responses to domestic violence incidents and prevent future fatalities.

a. Every Life Lost Is a Call for Change.

The statistics are overwhelming. However, to truly understand the gravity of the situation, we must remember that these statistics are not just numbers—they represent human lives tragically lost due to intimate partner violence. We must learn from their deaths to improve responses to domestic violence incidents and prevent future fatalities. The following are some excerpts from the tragic news articles on these cases:

- “A Bakersfield man followed his wife to Garden Grove, where he shot her to death Monday in front of their 6-year-old child and then killed himself with the same handgun, Garden Grove police said. . . . Friends told police the couple had been married for 10 years.”<sup>6</sup>
- “Police arriving at 9:30 p.m. Wednesday found [the perpetrator] and his girlfriend . . . fighting, exhausted and drenched in blood in a bathroom of their apartment. . . . [The police] said detectives are unsure of the weapons used, but he said that a pair of scissors have been recovered and may have been used in the attack.”<sup>7</sup>
- “Friends and family members are mourning the loss of 41-year-old [victim] who was stabbed and found dead in her West Irvine home Saturday morning. Her estranged husband was arrested on suspicion of the murder about 4½ hours later, police said. Police said that at about 9:45 a.m. a neighbor called 911 after the couple’s three sons, ages 2, 4 and 7, came running to her house for help.”<sup>8</sup>

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<sup>6</sup> *Bakersfield Man Kills Wife, Self in Front of Child*, BAKERSFIELD.COM (Sep. 9, 2016), [https://www.bakersfield.com/archives/bakersfield-man-kills-wife-self-in-front-of-child/article\\_3f8b639c-5529-5f52-a80d-8d74d5334d3f.html](https://www.bakersfield.com/archives/bakersfield-man-kills-wife-self-in-front-of-child/article_3f8b639c-5529-5f52-a80d-8d74d5334d3f.html).

<sup>7</sup> *Woman Dies After Stabbing*, THE ORANGE CNTY. REG. (Jul. 5, 2007, 3:00 AM), <https://www.oregister.com/2007/07/05/woman-dies-after-stabbing/amp/>.

<sup>8</sup> Jeff Overley & Erika I. Ritchie, *Mother of Three Found Dead; Estranged Husband Arrested*, THE ORANGE CNTY. REG. (Apr. 7, 2007, 3:00 AM), <https://www.oregister.com/2007/04/07/mother-of-three-found-dead-estranged-husband-arrested/>.

- “A neighbor called 911 to report shots fired shortly before 11 p.m. Saturday. Two minutes later, [the victims’ son] also called, telling police his father shot him and his brother in their home. . . . Police found the teen’s mother dead on the doorstep, the bodies of two girls in their beds and the body of a boy in another bedroom, along with the stepfather, who had a shotgun beneath him.”<sup>9</sup>
- “At 8 p.m. Sunday, a 9-year-old girl called 911 and said her parents were fighting inside their home. . . . The dispatcher heard what sounded like gunshots.”<sup>10</sup>
- “[The couple] were avid target shooters, and she gave her fiancé what would become a murder weapon as a present.”<sup>11</sup>
- “The family of a 20-year-old woman who police say was shot and killed by her boyfriend at an Anaheim home has set up a memorial fund in order to raise money for funeral expenses. Relatives of [the victim] say they were devastated by the death of a woman they described as an upbeat, “sweet girl” and a loving mother of three who was trying to better her life by studying to be a medical assistant.”<sup>12</sup>
- “A former Marine accused of stabbing to death his ex-girlfriend and her unborn child told an officer in a conversation recorded less than an hour after the brutal killing that he wasn’t sorry and that he did what he had to do.”<sup>13</sup>
- “Prosecutors said the pair lived together at [their] apartment for a brief time and during the course of their relationship, [victim] sought treatment for injuries caused by domestic violence and at one point fled to a women’s shelter. . . . [The perpetrator] was arrested Aug. 1 on suspicion of killing 19-year-old [girlfriend], whom he had dated for about four months earlier this year, according to the Orange County District Attorney’s Office. In June, [the

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<sup>9</sup> *Orange County Murder-Suicide Survivor Interviewed*, PRESS-TELEGRAM (Feb. 25, 2008, 12:00 AM), <https://www.presstelegram.com/2008/02/25/orange-county-murder-suicide-survivor-interviewed/>.

<sup>10</sup> Denisse Salazar, *Husband Dead, Wife Wounded in Dispute*, THE ORANGE CNTY. REG. (Apr. 26, 2010, 8:25 AM), <https://www.oregister.com/2010/04/26/husband-dead-wife-wounded-in-dispute/>.

<sup>11</sup> Matt Coker, *[Updated with Gun Was Her Gift to Him:] Uyennie Ton, OC Homicide No. 44: Fiancé Philip Ngoc Nguyen Accused of Shooting Her in Head*, O.C. WKLY. (Oct. 10, 2011), <https://www.ocweekly.com/updated-with-gun-was-her-gift-to-him-uyennie-ton-oc-homicide-no-44-fianc-philip-ngoc-nguyen-accused-of-shooting-her-in-head-6455726/>.

<sup>12</sup> Sean Emery, *Family Sets Up Fund After Mother of 3 Dies*, THE ORANGE CNTY. REG. (Sept. 1, 2011, 7:23 PM), <https://www.oregister.com/2011/09/01/family-sets-up-fund-after-mother-of-3-dies/>.

<sup>13</sup> Sean Emery, *Former Marine: ‘I Did What ... Was Right’ in Killing of Pregnant Ex-girlfriend*, THE ORANGE CNTY. REG. (Sept. 10, 2015, 6:40 AM), <https://www.oregister.com/2015/09/10/former-marine-i-did-what-was-right-in-killing-of-pregnant-ex-girlfriend/>.

perpetrator] was served with a restraining order prohibiting him from threatening, battering or attacking [the victim], prosecutors said.”<sup>14</sup>

Each individual that died as a result of intimate partner violence represents a complex story of suffering and abuse. Some victims attempted to get help through law enforcement or reached out to friends and family for support. However, in some cases it was too late, and in others the response was insufficient. These deaths cannot go unnoticed. They need to be recognized and changes need to be made so that a different story may be told in the future. We hope each year following this report will bring fewer deaths to be remembered.

#### b. Domestic Violence Dynamics

Domestic violence is commonly understood as behaviors an abusive partner uses to gain and maintain power and control over an intimate partner, which can include physical and sexual abuse, psychological or emotional abuse, coercive control, reproductive coercion, economic abuse, or other forms of violence, control, or intimidation.<sup>15</sup>

For those who have never experienced intimate partner violence, it may be difficult to understand why victims do not just leave when their partner becomes abusive. In explaining the complexity of abusive relationships, the “cycle of violence” description has been used to illustrate abuse dynamics in some abusive relationships. The cycle includes three phases: (1) tension-building phase, (2) crisis/violence phase, and (3) honeymoon phase.<sup>16</sup>

During the tension-building phase, the abuser may be increasingly argumentative, threatening, and aggressive and often leaves the victim feeling like they are walking on eggshells.<sup>17</sup>

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<sup>14</sup> Kelly Puente, *Placentia Man to Be Arraigned in Ex-girlfriend’s Beating Death*, THE ORANGE CNTY. REG. (Aug. 18, 2016, 1:13 PM) <https://www.ocregister.com/2016/08/18/placentia-man-to-be-arraigned-in-ex-girlfriends-beating-death/>.

<sup>15</sup> Note that this report frequently uses he/him/his pronouns for general references to abusers because the majority (88%) of the perpetrators seen in our case studies identified as male.

<sup>16</sup> EVAN STARK, COERCIVE CONTROL 245 (2007).

<sup>17</sup> *See Id.*

Tension continues to build until a major incident of abuse occurs or there may be chronic tension.<sup>18</sup> After the crisis incident, many abusers will then present as extremely apologetic and loving, “I’ll never do it again,” “I’m sorry,” “I never meant to hurt you,” “I promise I will change,” “I promise I’ll get help,” and “I only did it because I was drunk/high/lost my temper, etc.”<sup>19</sup> Over time and without effective intervention, the abuse may worsen in frequency and severity.<sup>20</sup>

The cyclical repetition of these three phases explains the dynamics of love, hope, and fear that make it hard to end an abusive relationship or report violent behavior. This cycle also helps explain why victims may recant or not pursue prosecution after an initial report has been made.

c. The Orange County DVDRT: Who Are We and What Do We Do?

The Orange County DVDRT is an interagency team that collects and assesses data regarding domestic violence fatalities across Orange County, California. The team consists of leadership from the Orange County Chiefs of Police and Sheriff’s Association, Orange County Coroner’s Office, Orange County District Attorney’s Office, Orange County Probation Department, Human Options (domestic violence service agency), University California Irvine School of Law’s Domestic Violence Clinic, Wel-Mor Psychology Group, Inc., and courts, along with researchers, psychologists, and scholars. The Orange County DVDRT assists local agencies in identifying and reviewing domestic violence deaths, including homicides and suicides, and facilitating communication among various agencies involved in domestic violence cases.<sup>21</sup> Through examining county coroner case files once prosecutions conclude, the Orange County

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<sup>18</sup> *Id.*

<sup>19</sup> *The Cycle of Violence*, DC.GOV, <https://mpdc.dc.gov/page/cycle-violence> (last visited July 22, 2021).

<sup>20</sup> *Id.*

<sup>21</sup> CAL. PENAL CODE § 11163.3.

DVDRT analyzes trends in domestic violence fatalities in order to develop recommendations for community prevention and intervention initiatives to reduce and eradicate domestic violence.

Domestic violence fatality review can also be described as the “deliberative process for identification of deaths, both homicide and suicide, caused by domestic violence, for examination of the systemic interventions into known incidents of domestic violence occurring in the family of the deceased prior to the death, for consideration of altered systemic response to avert future [intimate partner] violence deaths, or for development of recommendations for coordinated community prevention and intervention initiatives to eradicate domestic violence.”<sup>22</sup>

d. How Does the Orange County DVDRT Define Domestic Violence Fatalities?

We define domestic violence fatalities as deaths caused by an intimate partner. If additional fatalities occur outside of the intimate partner relationship while the perpetrator commits the intimate partner fatality, these fatalities are also deemed domestic violence fatalities.

The Orange County Coroner’s Office referred 89 cases to the Orange County DVDRT concerning homicides that occurred between 2006 and 2017 that were flagged as potentially relevant for our DVDRT. Multiple cases involved multiple deaths (e.g., homicide-suicide or homicide of an intimate partner and additional persons present). Some of the cases referred for review involved homicide of family or household members, but did not include intimate partner fatality. Therefore, for the purposes of this report, we did not include these cases (e.g., fatalities involving sibling- or parent-child relationships) in our data sample because of our concentration on the intimate partner relationship. Domestic violence fatalities caused by an intimate partner tend to follow similar patterns and could therefore benefit from systemic prevention efforts.

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<sup>22</sup> *Frequently Asked Questions*, NAT’L DOMESTIC VIOLENCE FATALITY REV. INITIATIVE, <https://ndvfri.org/about/faqs/> (last visited Mar. 24, 2021).

However, we recognize that family violence is not solely encapsulated within intimate partner relationships and hope that this report and the work that stems from it can be used to advocate for healthy families and communities free of violence in any form. For more information on other forms of family violence, please seek out reports by teams such as the Orange County Child Death Review Team<sup>23</sup> and the Orange County Elder Abuse Death Review Team.<sup>24</sup>

## **II. CASES EXAMINED BY THE ORANGE COUNTY DVDRT (2006-2017).**

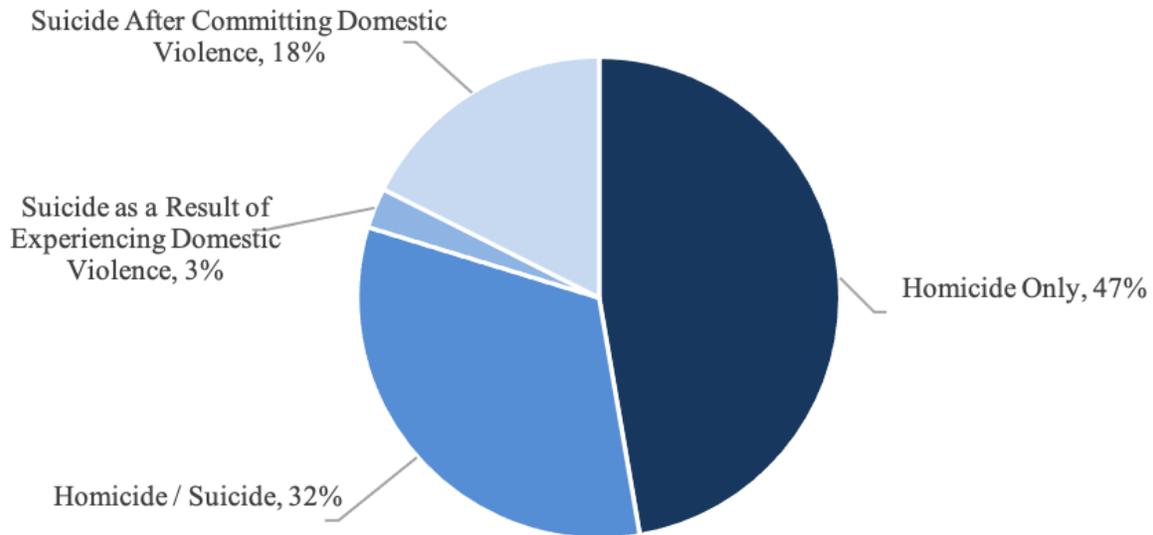
Since 2006, Orange County has seen over 100 fatalities stemming from intimate partner violence. However, the DVDRT acknowledges that this is likely a significant undercounting of actual domestic violence-related fatalities. Some domestic violence homicides are mistakenly classified as “accidental,” are not referred to our DVDRT, and never prompt criminal charges or prosecution. Therefore, they never make their way into crime statistics. We must assume that the following statistics reflect only part of the problem.

Between 2006 and 2017, 113 deaths were flagged as domestic violence fatalities. These fatalities were encapsulated in 74 “cases.” For the purpose of this report, “cases” are defined as incidents in which decedents were recovered. Many of these cases (38%) involved multiple homicide victims. When an abusive partner becomes homicidal, the danger extends to the family, friends, and others around the domestic violence victim.

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<sup>23</sup> *Links – Coroner*, ORANGE CNTY. SHERIFF’S DEPT. <https://www.ocsheriff.gov/commands-divisions/field-operations-investigations-command/coroner/links-coroner> (last visited Apr. 2, 2021).

<sup>24</sup> *Publications*, CTR. OF EXCELLENCE ON ELDER ABUSE & NEGLECT, <http://www.centeronelderabuse.org/publications.asp> (last visited Apr. 2, 2021).



Just under half (47%) of the domestic violence fatality cases we reviewed were homicide only. The remaining cases involved suicide by one of the parties involved. Most of these suicides involve males who kill their female intimate partners before taking their own lives. Thirty-two percent (32%) of the cases we reviewed were homicide-suicides. In 18% of the cases reviewed, the fatality involved was the abusive partner committing suicide after committing domestic violence. Finally, 3% of cases involved victims of domestic violence taking their own life in light of the abuse they were suffering. It is proposed these victims of domestic violence felt they had no other way to escape their assailant. Nationwide research suggests that a significant number of the 6,000 or so women who commit suicide each year do so because of their violent victimization at the hands of an intimate male partner.<sup>25</sup> The proximity between experiencing battering and women’s suicide attempts in general strongly suggests that battering may be one of the principal

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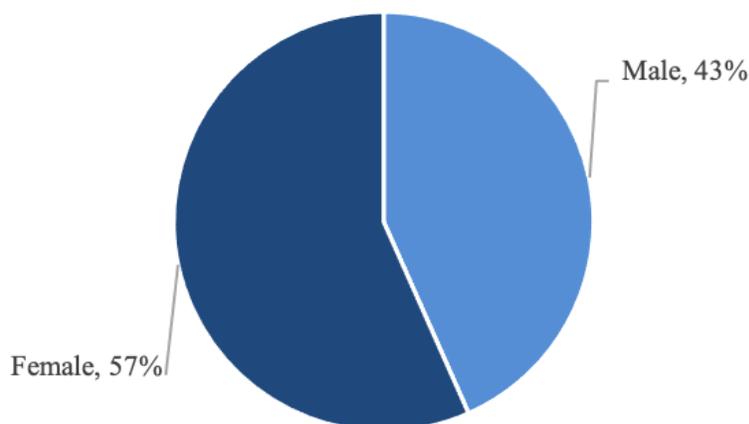
<sup>25</sup> Evan Stark & Anne Flitcraft, *Killing the Beast Within: Woman Battering and Female Suicidality*, 25 INT’L J. OF HEALTH SERVICES 43, 44 (1995).

causes of the suicide attempts,<sup>26</sup> and researchers conclude, “[I]n most cases we believe battered women are provoked to attempt suicide by the extent of control exercised over their lives.”<sup>27</sup>

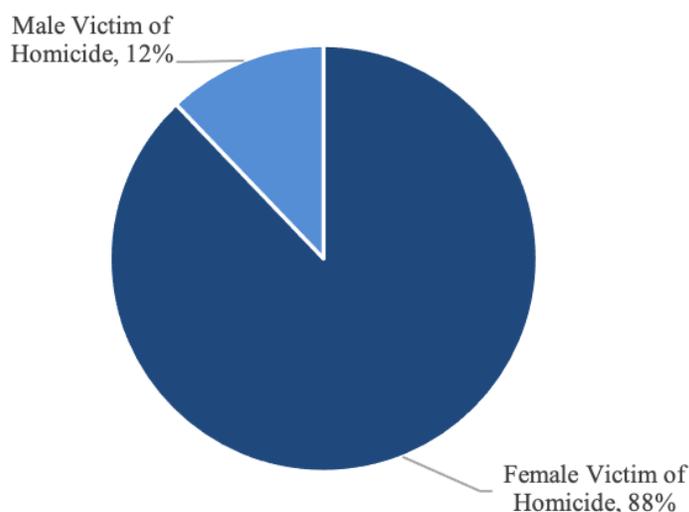
a. Demographics of the Decedents (Sex, Age, Race).

Of those 113 domestic violence fatalities (including all homicide-suicides), 57% of victims were female, whereas 43% were male. However, these numbers alone, without context, do not tell the full story. Over 80% of female deaths reviewed had a male intimate partner perpetrator. In contrast, men are less likely to be murdered by an intimate partner than women. Men are more likely to be the perpetrator of a murder-suicide or to commit suicide immediately after abusing their female partner. Of the 48 male deaths reviewed, approximately 75% were due to suicide and approximately 15% of male victims were murdered by a female partner. When comparing the sex of all intimate partner violence homicide victims, 88% of the

**Sex of Domestic Violence Decedents (Homicides & Suicides)**



**Sex of Domestic Violence Homicide Victims**



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<sup>26</sup> *Id.* at 49-50.

<sup>27</sup> *Id.* at 45.

homicide victims identified as female whereas only 12% of the homicide victims identified as male.

The majority of the domestic violence fatality victims were between the ages of 18 and 65, which matches national trends. Nationally, women ages 18 to 34 experience the highest rates of intimate partner violence.<sup>28</sup> However, it should be noted that seniors are not immune from intimate partner violence. Approximately 10% of the cases that we reviewed involved intimate partners that were above the age of 65. Unfortunately, social service providers and law enforcement agencies sometimes assume that older individuals are not capable of committing or being victimized by domestic violence.<sup>29</sup> This attitude sometimes translates into an assumption that homicide-suicides among older adults in a relationship are “mercy killings.”<sup>30</sup> Police officers or others who investigate the homicide-suicide and find a note telling authorities that the couple could not live on with ailing health might hastily label the death a “mercy killing.” Upon further investigation, however, family members may be able to attest to whether their elderly loved one had expressed a desire to live, not die.<sup>31</sup>

About 5% of the homicide victims in the cases referred to our DVDRT were children under the age of 18. These cases are distinguished from other child abuse deaths in that they were not necessarily preceded by mistreatment of the child. Rather, their genesis generally lied in the desire to control and punish the mother of the children.

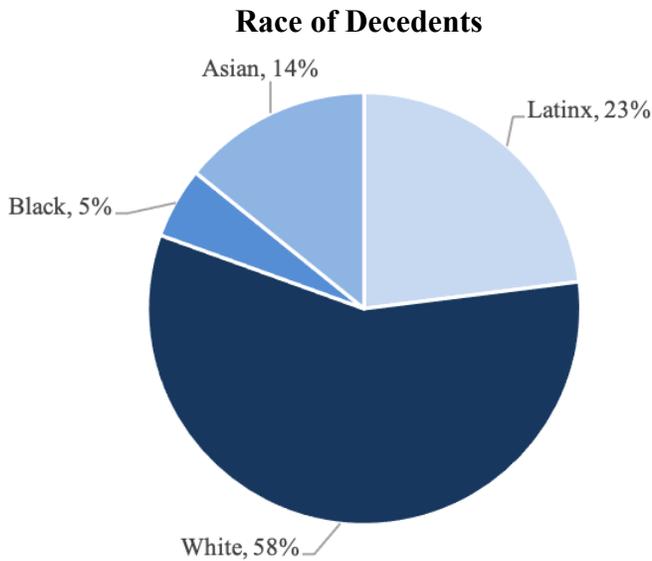
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<sup>28</sup> Michele C. Black et al., THE NAT’L INTIMATE PARTNER & SEXUAL VIOLENCE SURV.: 2010 SUMMARY REP. 49 (2011).

<sup>29</sup> Stark & Flitcraft, *supra* note 25, at 44.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*



In terms of racial demographics, 58% of the decedents were white. According to the 2019 U.S. Census, approximately 40% of Orange County residents identify as white.<sup>32</sup> Approximately 34% of Orange County residents identify as Latinx, while 23% of the domestic violence decedents were

Latinx.<sup>33</sup> Fourteen percent of domestic violence decedents were Asian, while over 20% of Orange County residents identified as Asian.<sup>34</sup> Finally, 5% of the domestic violence decedents were Black. However, only 2% of Orange County residents identify as Black according to the 2019 U.S. Census.<sup>35</sup>

b. Frequency and Location.

It should be noted that there are a total of 34 cities in Orange County, and that 16 cities were represented in the cases referred to the DVDRT of domestic violence fatalities between the years of 2006 to 2017 as seen in Appendix A.<sup>36</sup> However, for the 18 cities that were not included in this report, this could mean any of the following: no domestic violence fatalities occurred,

<sup>32</sup> *Quick Facts Orange County, California*, U.S. CENSUS BUREAU, <http://www.census.gov/quickfacts/fact/table/orangecountycalifornia,US/PST045219> (last visited Mar. 25, 2021).

<sup>33</sup> *Id.*

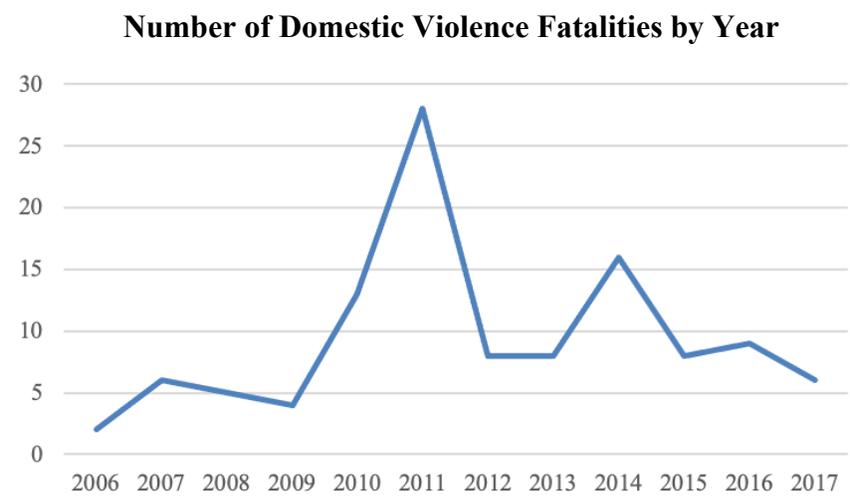
<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

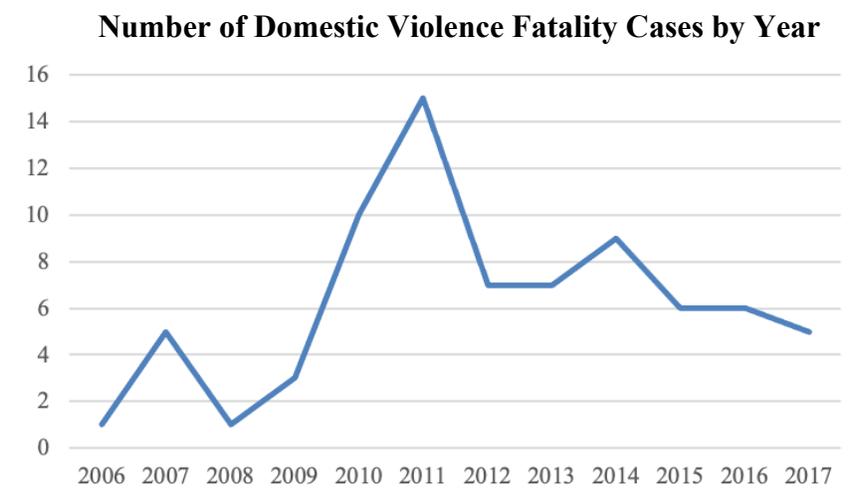
<sup>36</sup> The cities that did not report any intimate partner homicides between 2006 and 2017 are Aliso Viejo, Cypress, Dana Point, La Palma, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Los Alamitos, Mission Viejo, Newport Beach, Rancho Santa Margarita, San Clemente, San Juan Capistrano, Stanton, Tustin, Villa Park, and Yorba Linda.

intimate partner homicides occurring were incorrectly classified as accidents, or homicides committed by intimate partners went unsolved.

There was an uptick in domestic violence fatality cases in 2010 and 2011. The 2008 financial crisis had a substantial and lasting impact on Orange County. “Orange County was one



of the hardest hit regions during the Great Recession because of its over exposure to the subprime mortgage industry. . . . Because it was hit so hard, Orange County was one of the later markets to recover.”<sup>37</sup> In a national



study, researchers found that rapid increases in unemployment rates during the Great Recession were associated with increases in [intimate partner violence].”<sup>38</sup>

<sup>37</sup> Kelsi Maree Borland, *What Did the OC Market Learn From the Last Recession?*, GLOBEST.COM (Feb. 21, 2020, 4:00 AM), <https://www.globest.com/2020/02/21/what-did-the-oc-market-learn-from-the-last-recession/?slreturn=20210310225254#:~:text=The%202008%20financial%20crisis%20had%20a%20substantial%20impact%20on%20Orange%20County.&text=%E2%80%9COrange%20County%20was%20one%20of,JLL%2C%20tells%20GlobeSt.com>.

<sup>38</sup> Daniel Schneider, Kristen Harknett & Sara McLanahan, *Intimate Partner Violence in the Great Recession*, 53 DEMOGRAPHY 471, 472 (2016).

This indicates that economic uncertainty can play an important role in relationship dynamics.<sup>39</sup> While only 8 of the cases we reviewed reported financial troubles or job loss triggering or leading up to the fatality, it is possible that financial hardship was more common and went unreported. Economic Dynamics may also lead to late reporting and non-reporting of domestic violence when the victim relies on the abuser's income. Twenty-four cases (32% of the cases we reviewed) involved a recent divorce, separation, affair, and/or child custody dispute at the time of the fatality. However, these cases were evenly spread throughout the 11-year period and were not concentrated in any particular year(s).

The heightened number of cases in 2011 contributed to the substantial number of domestic violence fatalities that occurred in Orange County during that year. One particular incident took eight lives and added to this dramatic increase in domestic violence fatalities witnessed in 2011.<sup>40</sup> The incident has been referred to as the "Seal Beach Massacre."<sup>41</sup> In fact, "the majority of mass shootings in America are committed by individuals with histories of domestic violence."<sup>42</sup>

Enraged over a custody dispute, the perpetrator entered a side door of the crowded salon where his ex-wife worked and opened fire.<sup>43</sup> In previous court documents, his ex-wife had claimed he was "unstable and physically abusive during their marriage."<sup>44</sup> Six victims were declared dead

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<sup>39</sup> *Id.*

<sup>40</sup> Kevin Dolak & Christina Ng, *Seal Beach Massacre: Suspect's Ex-Wife Claimed Abuse*, ABC News, (Oct. 13, 2011, 1:00 AM), <https://abcnews.go.com/US/seal-beach-massacre-suspects-wife-claimed-abuse/story?id=14726230>.

<sup>41</sup> *Id.*

<sup>42</sup> Jane Stoeber, *Texas Shooting Shows Risk of Ignoring Relationship Violence*, CNN (Nov.10, 2017, 8:53 AM), <https://www.cnn.com/2017/11/10/opinions/texas-shooting-relationship-violence-stoeber-opinion/index.html>.

<sup>43</sup> Dolak & Ng, *supra* note 40.

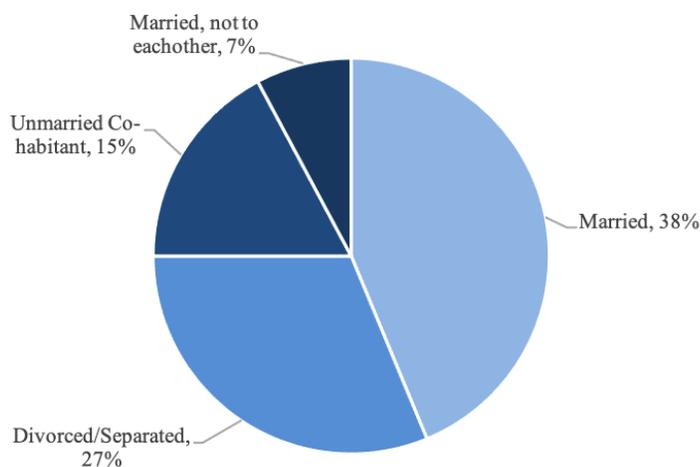
<sup>44</sup> *Id.*

at the scene.<sup>45</sup> Three people were hospitalized with severe wounds and two of them later died.<sup>46</sup> This was the deadliest shooting in Orange County history to date.<sup>47</sup>

c. Relationship of Perpetrators and Victims.

Thirty-eight percent of the domestic violence fatality cases we reviewed involved intimate partner relationships where the perpetrator and victim were married at the time of the fatality. In 27% of the cases, the perpetrator and victim were divorced or separated at the time of death. In the

**Relationship of Perpetrator and Victim at the Time of the Fatality**



remainder of the cases (22% of the cases we reviewed), the perpetrator and victim were in some sort of dating relationship, either unmarried co-habitants or married but not to each other.

d. History of Violence.

Often, there are warning signs before domestic violence turns fatal. Domestic abusers are significantly more likely to re-offend, and relationships that involve violence are more likely to result in a homicide. Many warning signs manifest in relationships before turning fatal. The most common sign is prior physical abuse, but non-physical abuse—including threats and jealousy—are also indicators.<sup>48</sup> While these signs are identifiable in many cases, often these behaviors go

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<sup>45</sup> *Id.*

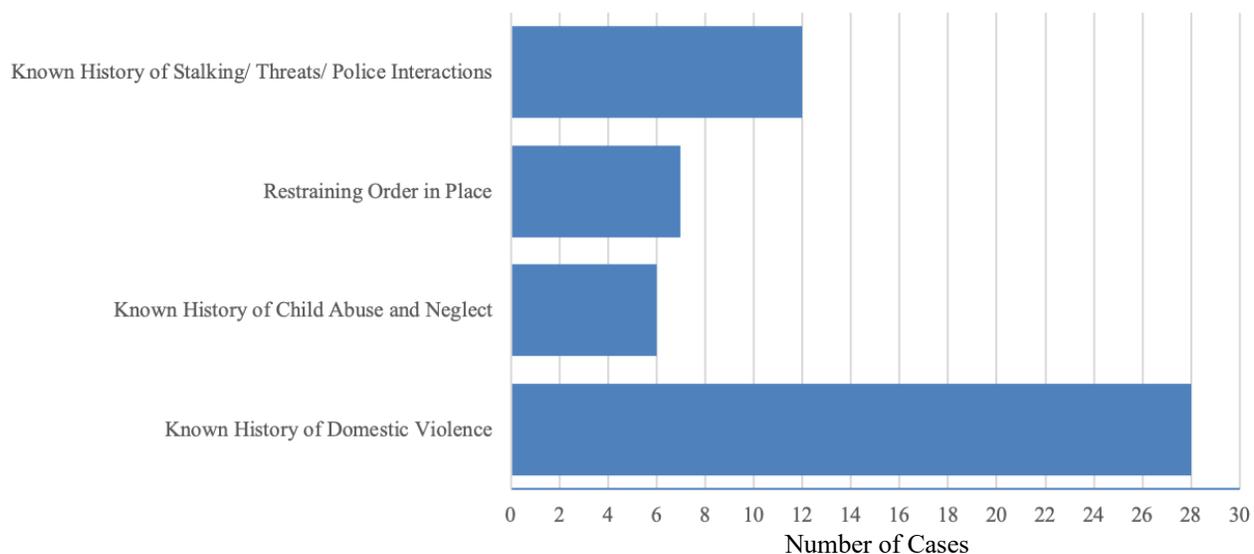
<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Danger Assessment*, WOMENSLAW.ORG (Apr. 30, 2019), <https://www.womenslaw.org/about-abuse/am-i-being-abused/danger-assessment>.

unreported.<sup>49</sup> This is exemplified in Orange County where just under half (46%) of intimate partner fatality cases involved some known history of violence, yet only 9% of these cases had a restraining order in place. If we want to prevent domestic abuse from turning fatal, we need to address the barriers abuse survivors face when deciding whether to seek help.

### **Known History of Violence in the Relationship Prior to the Fatal Incident**



There are many reasons survivors choose not to report abuse, many of which illuminate structural problems in the way our society grapples with domestic violence. One barrier to reporting is a fear of law enforcement interaction. Many survivors are fearful the police will not believe them, will be hostile, or will blame them for the abuse and arrest the abuse victim.<sup>50</sup> Barriers to seeking help are also common in minority communities, where survivors feel marginalized from law enforcement or fear they may be wrongfully arrested or harmed. Undocumented immigrant survivors are even less likely to report due to fears of deportation and

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<sup>49</sup> *Id.*

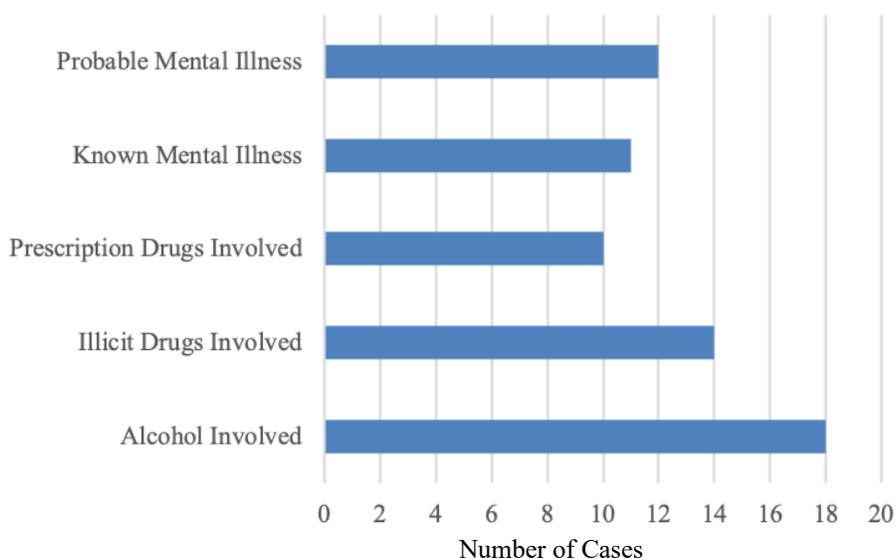
<sup>50</sup> *New Report Examines Why Victims of Domestic and Sexual Violence Don't Call the Police*, ACLU (Oct. 27, 2015), <https://www.aclu.org/news/new-report-examines-why-victims-domestic-and-sexual-violence-dont-call-police>.

mandatory reporting laws requiring medical officials to report suspected abuse to law enforcement.<sup>51</sup>

These barriers to reporting serve to further isolate survivors and discourage them from reporting or seeking help. If we want to combat domestic violence effectively, we need to take steps to ensure survivors have a voice, and bridge the gap between survivors and the help they need. We also need to ensure law enforcement and other professionals have adequate training and understand the complex dynamics of domestic violence.

e. Substance Abuse, Mental Illness, and Other Factors to Consider.

**Reports of Substance Abuse and Mental Illness  
in the Cases Reviewed**



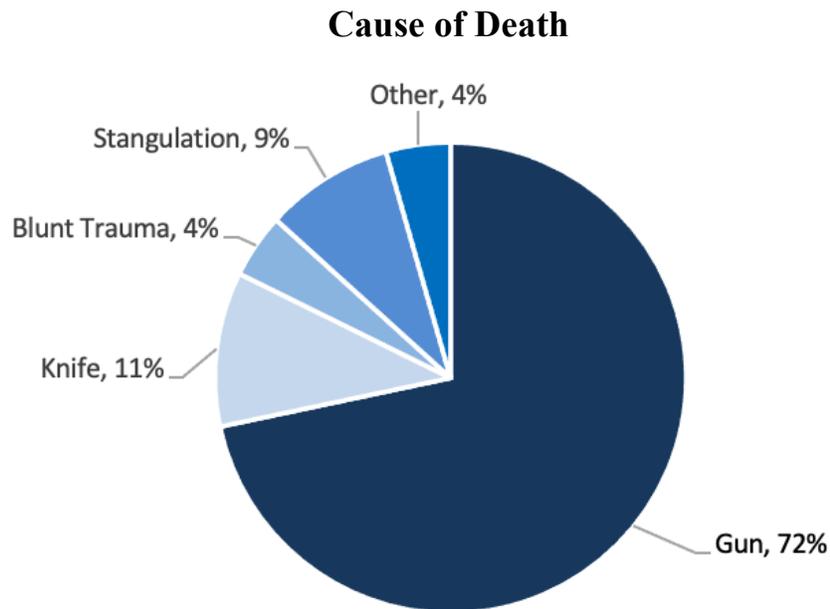
In 24% of the cases reviewed, alcohol was used at the time of the homicide either by the perpetrator, victim, or both. In 19% of the cases reviewed, illicit drugs were used at the time of the homicide, and in 14%

of the cases reviewed, prescription drugs were used. Additionally, in 15% of the cases reviewed, the perpetrator had some mental illness diagnosis, and in 16% of the cases reviewed, there was a suspected but undiagnosed mental illness.

<sup>51</sup> Jane K. Stoeber, *Op-Ed: Domestic Violence Victims Shouldn't Have to Choose Between Deportation and Medical Care*, L.A. TIMES (Jul. 17, 2017, 4:00 AM) <https://www.latimes.com/opinion/op-ed/la-oe-stoeber-mandatory-reporting-domestic-violence-20170717-story.html>.

f. Cause of Death.

By far, the leading cause of death in the cases reviewed by the DVDRT is by a firearm. Seventy-two percent of the cases involved death by a firearm, 11% of the cases involved death by knife, 9% of cases involved death by strangulation, 4% of the cases involved death by blunt trauma, and 4% of cases involved some other means.



Most people are aware of the gun violence epidemic in the United States, a threat that is magnified in the domestic violence context, where access to firearms in the home substantially increases fatality rates. Orange County is no stranger to gun violence in the home. Domestic violence homicides committed by an intimate partner often involve more up-close-and-personal

means such as stabbing or strangulation than in other murders.<sup>52</sup> However, firearms are still by far the most common method used in domestic violence homicides.<sup>53</sup>

### III. LETHALITY FACTORS.

Through extensive research, Dr. Jacquelyn C. Campbell identified lethality factors associated with homicides of individuals in violent relationships. These lethality factors are listed in the Danger Assessment questionnaire that Dr. Campbell developed with consultation and content-validity support from battered partners, shelter workers, law enforcement officials, and clinical experts.<sup>54</sup> The questionnaire helps to determine a battered partner's risk of being killed by their partner.

To maximize the usefulness of this DVDRT report, the Danger Assessment questions are attached in Appendix B. Several of Campbell's lethality factors that indicate a high likelihood of

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<sup>52</sup> Katie Zezima, Deanna Paul, Steven Rich, Julie Tate & Jennifer Jenkins, *Domestic Slayings: Brutal and Foreseeable*, WASH. POST (Dec. 9, 2018), at [https://www.washingtonpost.com/graphics/2018/investigations/domestic-violence-murders/?noredirect=on&utm\\_term=.26c6b1127312](https://www.washingtonpost.com/graphics/2018/investigations/domestic-violence-murders/?noredirect=on&utm_term=.26c6b1127312).

<sup>53</sup> *Id.*

<sup>54</sup> Jacquelyn C. Campbell, *Danger Assessment*, DANGER ASSESSMENT, <https://www.dangerassessment.org/DA.aspx> (2019) [hereinafter Campbell, *Danger Assessment*]; see also JACQUELYN C. CAMPBELL, *ASSESSING DANGEROUSNESS: VIOLENCE BY SEXUAL OFFENDERS, BATTERERS, AND CHILD ABUSERS* (Sage Publications, 1995); Jacquelyn C. Campbell, Daniel W. Webster & Nancy Glass, *The Danger Assessment: Validation of a Lethality Risk Assessment Instrument for Intimate Partner Femicide*, 24 J. INTERPERSONAL VIOLENCE (2009); Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study*, 93 AM. J. PUBLIC HEALTH 1089-97 (2003); Jacquelyn C. Campbell, Phyllis W. Sharps & Nancy Glass, *Risk Assessment for Intimate Partner Violence*, in *CLINICAL ASSESSMENT OF DANGEROUSNESS: EMPIRICAL CONTRIBUTIONS* 136-57 (ed. Georges-Franck Pinard & Linda Pagani, Cambridge University Press, 2000).

fatality are gun possession, gun threats and violence, and strangulation.<sup>55</sup> Thus, the remaining sections of this report provide an in-depth analysis of firearms and strangulation.

#### IV. STRANGULATION.

Nationwide studies show that at least one in four women will experience severe domestic violence in their lifetimes,<sup>56</sup> and up to 68% of abuse survivors will be victims of near-fatal strangulation by their partner.<sup>57</sup> Strangulation is the act in which the airflow of the trachea or the blood flow of the blood vessels in the neck is constricted via force being applied to the neck *externally* by hands or another object.<sup>58</sup> Further studies show that out of those women who have been victims of strangulation, 97% are manually strangled by the hands of their attacker,<sup>59</sup> 38%

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<sup>55</sup> Jill Theresa Messing, Jacquelyn C. Campbell & Carolyn Snider, *Validation and Adaptation of the Danger Assessment-5: A Brief Intimate Partner Violence Risk Assessment*, 73 J. ADVANCED NURSING 3220-30 (2017) (recommending that the Danger Assessment-5 that includes the strangulation question be used for a quick assessment of homicide or near-homicide risk among intimate partner violence survivors. Further, protocols for immediate referrals and examination for further injury from strangulation are recommended for these high-risk abuse survivors).

<sup>56</sup> Matthew J. Brieding et al., *Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Violence Victimization – National Intimate Partner and Sexual Violence Survey, United States, 2011*, MORBIDITY & MORTALITY WKLY. REP. (Sept. 5, 2014), <https://www.cdc.gov/mmwr/preview/mmwrhtml/ss6308a1.htm>.

<sup>57</sup> Ellen Taliaferro, Dean Hawley, George McClane & Gael Strack, *Strangulation in Intimate Partner Violence*, in INTIMATE PARTNER VIOLENCE: A HEALTH-BASED PERSPECTIVE 217, 220 (Connie Mitchell & Deirdre Anglin eds., 2009).

<sup>58</sup> It is important to differentiate strangulation from choking. Strangulation occurs via the application of an *external* force on the neck, while choking occurs via an object becoming stuck *internally* in the air passage. Penny Clute, *The Law and You: Strangulation Always Serious*, FAM. JUST. CTR. ALL. (Jan. 15, 2019, 12:21 PM), <https://www.familyjusticecenter.org/the-law-and-you-strangulation-always-serious/#:~:text=%E2%80%9CChoking%E2%80%9D%20refers%20to%20a%20blockage,oxygen%20from%20reaching%20the%20brain.>

<sup>59</sup> Gael B. Strack, George McClane & Dean Hawley, *A Review of 300 Attempted Strangulation Cases: Part I: Criminal Legal Issues*, 21 J. OF EMERGENCY MED. 303, 305 (2001).

report losing consciousness during the attack,<sup>60</sup> 35% are strangled while also being sexually assaulted,<sup>61</sup> and 70% of those strangled believed they were going to die during the attack by their abuser.<sup>62</sup> One study found that victims of strangulation face a 750% increase in later homicide-related death compared to those who have never been strangled before.<sup>63</sup>

It is important to understand that the force required to strangle an individual is shockingly little and that the effects of strangulation on the human body are immediate and can cause death in little more than a minute. At zero seconds, when force is first being applied to the neck, the carotid arteries and the trachea become blocked, preventing oxygen-rich blood from reaching the brain. In order to block a carotid artery, only 11 pounds per square inch (psi) is required, while 34 psi is required to block the trachea.<sup>64</sup> For context, 20 psi is required to open a soda can, and the typical adult male handshake averages approximately 80 to 100 psi.<sup>65</sup> After only five to ten seconds of strangulation, an adult male will begin to lose consciousness.<sup>66</sup> After approximately 14 seconds, anoxic seizures occur.<sup>67</sup> During an anoxic seizure, the heart slows down dramatically, and in some cases even stops momentarily, causing a further reduction of blood flow to the brain. At 15

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<sup>60</sup> Lisa B. E. Shields, Tracey S. Corey, Barbara Weakley-Jones & Donna Stewart, *Living Victims of Strangulation: A 10-year Review of Cases in a Metropolitan Community*, 31 AM. J. OF FORENSIC MED. PATHOLOGY 320, 322 (2010).

<sup>61</sup> Thomas Plattner, S. Bolliger & U. Zollinger, *Forensic Assessment of Survived Strangulation*, 153 FORENSIC SCI. INT'L 202, 203 (2005).

<sup>62</sup> Lee Wilbur et al., *Survey Results of Women Who Have Been Strangled While in an Abusive Relationship*, 21 J. EMERGENCY MED. 297, 299 (2001).

<sup>63</sup> Nancy Glass et al., *Non-fatal Strangulation is an Important Risk Factor for Homicide of Women*, 35 J. EMERGENCY MED. 329, 329-335 (2008).

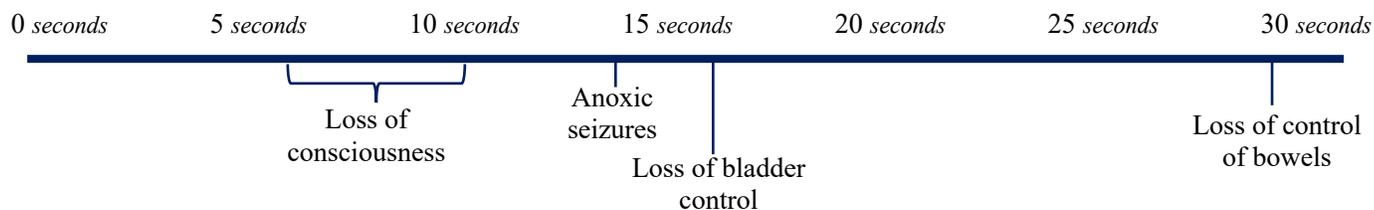
<sup>64</sup> Heather Mongilio, *Authorities Lead Strangulation Investigation Training*, ALL. FOR HOPE INT'L (Jun. 22, 2016, 7:49 PM), <https://www.strangulationtraininginstitute.com/authorities-lead-strangulation-investigation-training/>.

<sup>65</sup> *Id.*

<sup>66</sup> Ralph Rossen, Herman Kabat & John Anderson, *Acute Arrest of Cerebral Circulation in Man*, 50 ARCHIVES OF NEUROLOGY & PSYCHIATRY 510, 513 (1943).

<sup>67</sup> Anny Sauvagneau et al., *MPS for the Working Group on Human Asphyxia*, 32 FORENSIC MED. PATHOLOGY 104, 104-107 (2011).

seconds, strangulation victims lose control of their bladder.<sup>68</sup> At 30 seconds, victims lose control of their bowels.<sup>69</sup> At one minute, respiration can cease and death occur.<sup>70</sup>



Survivors of a strangulation attack still face various short- and long-term health complications, and even delayed death, after an attack. Millions of brain cells die every second a victim’s brain is deprived of oxygen.<sup>71</sup> Because of this, survivors of strangulation may develop forms of both short- and long-term memory loss or amnesia.<sup>72</sup> Victims may also experience later neck and throat injuries, including swelling up to 48 hours after the attack.<sup>73</sup> Survivors of strangulation tend to have higher incidences of anxiety and depression, including suicidal tendencies, in addition to suffering from post-traumatic stress disorder (PTSD) and lowered self-esteem.<sup>74</sup>

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<sup>68</sup> Rossen et al., *supra* note 66, at 518.

<sup>69</sup> *Id.*

<sup>70</sup> The range for death can occur at different times. In a study of 14 deaths by strangulation, at 62 seconds, the first death occurred. For the following minute-and-a-half, deaths occurred at varying intervals, with the last death occurring at 152 seconds. Sauvagneau et al., *supra* note 67, at 104-107.

<sup>71</sup> Jeffrey Saver, *Time is Brain – Quantified*, 37 *STROKE*, 263-266 (2006).

<sup>72</sup> *Id.*

<sup>73</sup> Marco Di Paolo et al., *Unexpected Delayed Death After Manual Strangulation: Need for Careful Examination in the Emergency Room*, 71 *MONALDI ARCHIVES FOR CHEST DISEASE* 132, 132-34. (2009).

<sup>74</sup> *Strangulation Can Leave Long Lasting Injuries*, DOMESTICSHELTERS.ORG (Apr. 4, 2016), <https://www.domesticshelters.org/articles/health/strangulation-can-leave-long-lasting-injuries>.

Delayed strangulation deaths mainly resulted from carotid artery dissection.<sup>75</sup> Carotid artery dissection is a condition in which the layers of the carotid artery begin to separate, causing the walls of the artery to tear.<sup>76</sup> Once the walls begin to tear, blood leaks out of the artery, causing the brain to not receive any oxygen.<sup>77</sup> Carotid artery dissection is especially dangerous because there are typically no external signs or visible symptoms of the condition.<sup>78</sup> People experiencing carotid artery dissection will typically suffer from symptoms such as: headaches, eye and neck pain, pulsing sounds in an ear, and trouble swallowing.<sup>79</sup>

There is no set timeline as to when further complications from a strangulation attack may appear. Studies have shown that complications may occur hours after the attack or several years down the line.<sup>80</sup> Therefore, survivors of strangulation attacks should receive a Computed Tomography (CT) scan to determine whether or not the walls of the artery are beginning to deteriorate and whether they need life-saving medical care.

a. Strangulation in Orange County Domestic Violence Fatalities.

Ten of 113 intimate partner violence fatalities that occurred in Orange County between 2006 and 2017 were caused by strangulation. This 9% figure is significant and deserves to be studied as a lethality risk and cause. Research shows that strangulation is both an extremely prominent and dangerous form of intimate partner violence.<sup>81</sup> Furthermore, reporting and

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<sup>75</sup> Gael Strack, *Strangled Victims Need Imaging*, ALL. FOR HOPE INT’L (May 22, 2020, 4:09 PM), <https://www.allianceforhope.com/strangled-victims-need-imaging/>.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Carotid Dissection*, SEDARS CINA, <https://www.cedars-sinai.org/health-library/diseases-and-conditions/c/carotid-dissection.html> (last visited July 23, 2021).

<sup>80</sup> Strack, *supra* note 75.

<sup>81</sup> Stavra Ketchmark, *“All Abusers Are Not Equal”*: *New IPV Research Reveals an Indicator of Deadly Abuse*, ALL. FOR HOPE INT’L (Jan. 28, 2020, 3:28 PM),

prosecution of strangulation may be underrepresented, even in cases where death has occurred, because there are not always visible external signs of strangulation.

All the victims that died due to strangulation in Orange County over this eleven-year period were women. These cases involving strangulation show two trends: (1) strangulation is occurring in heat-of-the-moment situations that lack de-escalation, and (2) strangulation is being used in femicide when the perpetrator lacks easy access to weapons. All the incidents involving strangulation began with loud arguing that escalated into rage on the part of the suspect. Several suspects stated that their actions were unintentional, and they were not strangling the descendants for a long time. For example, in one case, a husband strangled his wife during an argument about her infidelity. The husband had found birth control, even though he had had a vasectomy years ago. The husband confronted the decedent about it, and during the confrontation, the argument quickly escalated, he put his hands on her neck, and strangled her.

Most of the strangulation cases reviewed for this report involved no other weapons besides the suspect's hands. And, in one of the few strangulation cases that involved a weapon, the "weapon" used was a simple everyday item – a screwdriver. The suspects did not take time to obtain a weapon, but rather used what was readily available to attack in a moment of intense anger. And, the most dangerous weapon available at that time was their hands.

b. Signs and Symptoms of Strangulation.

Nationwide, in 50% of cases involving strangulation, there are no visible signs of injury.<sup>82</sup> In the cases where there are visible signs of injury, not all injuries will be located on the neck. When there are no visible signs of injury, various symptoms may reveal that someone has been

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<https://www.strangulationtraininginstitute.com/all-abusers-are-not-equal-new-ipv-research-reveals-an-indicator-of-deadly-abuse/>.

<sup>82</sup> Strack et al., *supra* note 59, at 303.

strangled. This section details several signs and symptoms useful to medical staff and law enforcement officers when investigating a strangulation attack.

*i. Signs of Strangulation.*

When a strangulation attack occurs, a number of visible injuries may appear on a victim's body (see Appendix C). The first place to examine is the victim's neck. Signs that may be visible on a victim's neck include redness and swelling around the area that pressure was applied, fingernail and scratch marks (typically from the victim attempting to pry the hand or ligature away from their neck), bruising (which may include imprints of the thumb and/or fingers at the front and back of the neck, such as near the back hairline), and ligature marks.<sup>83</sup> However, because injuries may not be visible on the neck, it is advisable to also examine other areas of the victim's body.<sup>84</sup>

The eyes and eyelids may also show signs of strangulation.<sup>85</sup> In fact, one of the most prominent signs of strangulation is petechiae on the victim's eyes or eyelids.<sup>86</sup> A petechia is a small red or purple spot that appears on the eyelid or eyeball of a victim due to a minor bleed caused from a broken capillary blood vessel.<sup>87</sup> Petechiae tend to form during a strangulation due to an increase in pressure of the veins of the head, and because of hypoxic damage to the walls of blood vessels.<sup>88</sup> During a strangulation, oxygen is deprived to not only the brain, but also to the

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<sup>83</sup> Sara Vehling, *Taking Your Breath Away – Why Strangulation in Domestic Violence is a Huge Red Flag*, MOBILE ODT (Oct. 16, 2019), <https://www.mobileodt.com/blog/taking-your-breath-away-why-strangulation-in-domestic-violence-is-a-huge-red-flag/>.

<sup>84</sup> *Id.*

<sup>85</sup> *Strangulation Choking, FACES OF HOPE*, <https://www.facesofhopevictimcenter.org/strangulation-choking#:~:text=Signs%20of%20Strangulation%3A,and%20oval%20and%20often%20faint> (last visited Apr. 13, 2021).

<sup>86</sup> California District Attorneys Association & Training Institute on Strangulation Prevention, *The Investigation and Prosecution of Strangulation Cases* (2013), [https://evawintl.org/wp-content/uploads/California-Strangulation-Manual\\_web3.pdf](https://evawintl.org/wp-content/uploads/California-Strangulation-Manual_web3.pdf).

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

blood vessels supplying the brain, thus causing the walls of the vessels to weaken leading to petechiae.<sup>89</sup> Other common signs of strangulation in the victim's eyes are bloodshot eyes and/or droopy eyelids.<sup>90</sup>

Signs of strangulation may also be visible around the face and ears of a victim. As with the eyes, petechiae can form on areas of the face and around the ears due to a high level of pressure being exerted in the blood vessels.<sup>91</sup> Victims may also show signs of swelling in areas of their face, in addition to exhibiting areas of facial drooping due to neurological and muscle damage. Bruising may occur behind the ears, and victims may even bleed from one or both ears after suffering an attack.<sup>92</sup> Bruising may also occur at the back of the neck near the hairline. Visible signs of injury can also occur within the mouth after a strangulation attack.<sup>93</sup> Some injuries that may be present in the mouth include bruising, petechiae, and a swollen tongue or lips.<sup>94</sup>

Lastly, signs of injury may be visible on a victim's chest. These injuries can include redness, scratch marks and abrasions, and bruising (typically formed from the attacker holding the victim down with their knee or other part of their body while applying pressure). The perpetrator may also have scratch marks and abrasions from the victim seeking to survive the strangulation.<sup>95</sup>

*ii. Symptoms of Strangulation.*

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<sup>89</sup> *Id.*

<sup>90</sup> Gael B. Strack & George McClane, *How to Improve Your Investigation and Prosecution of Strangulation Cases* (Oct. 1998), [http://www.ncdsv.org/images/strangulation\\_article.pdf](http://www.ncdsv.org/images/strangulation_article.pdf).

<sup>91</sup> *Strangulation Choking*, *supra* note 85.

<sup>92</sup> *Id.*

<sup>93</sup> California District Attorneys Association & Training Institute on Strangulation Prevention, *supra* note 86.

<sup>94</sup> Strack & McClane, *supra* note 90.

<sup>95</sup> *Id.*

Not all strangulation victims will show visible signs of injury.<sup>96</sup> In these situations, several physiological and neurological symptoms may be observed when investigating a strangulation attack (see Appendix C).

A majority of physiological symptoms of strangulation occur in both the head and throat regions of the body. Survivors of strangulation frequently report that they have several changes in their breathing habits.<sup>97</sup> These symptoms include difficulty breathing, respiratory distress, inability to breathe, and stridor (high-pitched sounds resulting from disrupted air flow in the larynx). These symptoms tend to occur due to damage to the trachea and surrounding area during strangulation. Although pressure is no longer being directly applied to the area, swelling of the muscles around the trachea and the trachea itself may cause the airway to constrict, thus creating difficulty breathing.<sup>98</sup>

Survivors of strangulation may experience additional symptoms. In some cases, survivors may exhibit a raspy or hoarse throat caused by damage to the voice box due to the application of direct force.<sup>99</sup> Survivors may be unable to speak, have trouble swallowing, or feel the need to continually clear their throat cough repeatedly due to severe damage or swelling.<sup>100</sup> Survivors may also drool, which is generally caused by muscular damage around the mouth.<sup>101</sup>

Several neurological symptoms can result from strangulation. As noted above, survivors may indicate that they have a loss of memory.<sup>102</sup> This is typically a result of the loss of neurons

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<sup>96</sup> *Strangulation Choking, supra* note 85.

<sup>97</sup> *Id.*

<sup>98</sup> Strack & McClane, *supra* note 90.

<sup>99</sup> *Strangulation Choking, supra* note 85.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> Di Paolo et al., *supra* note 73, at 132-34,

and synapses in the brain due to oxygen deprivation.<sup>103</sup> Survivors may also report that they experience dizziness or headaches or that they have fainted on several occasions.<sup>104</sup> Uncontrolled urination or defecation may also be a symptom of a strangulation attack, as the part of the brain controlling these functions may have been damaged during the attack.<sup>105</sup> Lastly, survivors of a strangulation attack may exhibit varying behavioral changes, ranging from extreme sadness to extreme anger, being the result of a deprivation of oxygen to the brain.<sup>106</sup>

c. Recommendations for Agencies Involved in Strangulation Investigation.

Strangulation is the most lethal form of abuse.<sup>107</sup> Education is one of the first steps to preventing strangulation.<sup>108</sup> Strangulation is extremely dangerous, not only in the initial action, but also in the days, months, and years following the attack. Because strangulation creates such risks for both the life and ongoing wellbeing of a survivor, it is important that the various agencies (law enforcement, medical, and judicial) involved in the investigation of these attacks be aware of all risks involved. In this section, we provide recommendations for how agencies should approach strangulation investigations to ensure the safety and health of survivors. We will also introduce possible ways to educate the public.

*iii. Law Enforcement.*

In most cases, law enforcement agents will be the first responders to encounter a survivor of a strangulation attack. Because of this, officers play a vital role in gathering accurate and

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<sup>103</sup> Saver, *supra* note 71, at 263.

<sup>104</sup> *Strangulation Choking*, *supra* note 85.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Strangulation: The Most Lethal Form of Domestic Violence*, WHERE'S THE LINE (Jun. 29, 2018), <https://wherestheline.info/strangulation-the-most-lethal-form-of-domestic-violence/>.

<sup>108</sup> Andi Foley, *Strangulation: Know the Symptoms, Save a Life*, 41 J. OF EMERGENCY NURSING 89, 89-90 (2015).

detailed information about what occurred. Due to the importance of the officer's role, various jurisdictions have created domestic violence investigation forms that lay out how an investigation should be conducted. In this section, we discuss how an officer should go about conducting the interview.

As with many cases of domestic violence, victims of non-fatal strangulation may not explain what happened chronologically.<sup>109</sup> And, as discussed, strangulation may affect short-term memory. It is thus imperative that the investigating officer conduct their investigation in a way that assists the survivor in recounting what happened so that a full and complete understanding of the attack can be reported. To start, the investigating officer should ask the survivor to describe how they were assaulted. When asking the survivor to do this, the investigator should make sure to extract as much information as possible. It is not enough for the survivor to say they were strangled. The investigator should follow up, in a sensitive way, with questions such as:

- How were you strangled?
- Were you strangled more than once during this attack?
- Recognizing that even a second is significant and dangerous, can you estimate the length of time?
- How much pressure did your assaulter use?
- While you were being strangled, were you able to breathe?
- How did you feel physically?
- How did you feel emotionally?

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<sup>109</sup> Jerrod Brown, *Strangulation, Domestic Violence, and Brain Injury: An Introduction to a Complex Topic*, BRAIN INJURY ASS'N OF AM., <https://www.biausa.org/public-affairs/media/strangulation-domestic-violence-and-brain-injury-an-introduction-to-a-complex-topic> (last visited July 21, 2021).

- Were you able to scream?
- Did you lose control of your bladder or bowels?

Asking these types of questions would allow medical staff to later determine how much pressure may have been applied to the survivor during the attack. While asking these questions, the investigator should also ask the survivor, if possible, to show them where the attack occurred and if the survivor has changed their clothes so that the investigator can try to gather evidence that corroborates the account.<sup>110</sup>

While questioning the survivor, the investigator should also ask to examine for any visible signs of injury. The investigator should ask the survivor to point to where the pressure was applied so that the investigator can look for signs or swelling, bruising, or redness. The investigator should also take pictures so that medical staff can later use these preliminary photos to determine whether the injuries have worsened. If possible, the investigator should also show how big any injuries are by using a measuring device or some other object. The investigator should also make sure to ask whether the survivor feels any pain anywhere even if injuries are not visible.

Bruising and external marks often take 48 hours to develop, so the victim should be monitored for both internal and external injuries that develop. Additionally, technology to detect bruising across skin tones should be utilized; bruising is often apparent only on white skin, and advanced technology is needed to detect bruising on non-white skin and address health and justice race-based inequities.

Some injuries may be internal, so it is important for the investigator to ask questions such as whether the survivor feels any pain in their throat, or whether they feel lightheaded or nauseous. These may be symptoms of severe internal or neurological injuries.

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<sup>110</sup> Strack, *supra* note 75.

Other than visible signs of injury, the investigating officer should observe how the survivor is acting while they are talking. A survivor exhibiting symptoms of drooping face, difficulty speaking, raspy or hoarse voice, or a drooping eyelid is showing signs of serious complications. These symptoms must be documented and reported accurately to medical personnel so proper treatment is administered. Investigating officers may even want to record the interview with the victim. Victims may be uncooperative with police and prosecution in later stages of the investigation for a multitude of reasons. Recording the demeanor, body language, injuries, and audible characteristic of a victim's voice can preserve evidence of strangulation even if the individual later recants.

Investigating officers are required to give notice to survivors of strangulation attacks regarding the dangers of strangulation.<sup>111</sup> Agencies should ensure this legal mandate is followed, and investigators should provide survivors with information about services that are available to receive additional needed help and support.

In sum, the investigating officer must accommodate immediate needs for medical care and ensure that a survivor has access to medical care, while ensuring the investigator gets accurate detailed information. Not only will this information help medical staff as they treat the survivor, but it will aid attorneys in pursuing a case against an assailant. Failure to report accurate information could result in drastic harm to the survivor.

*iv. Medical Professionals.*

Identifying that a strangulation attack has occurred is of vital importance, as even those who have survived the initial attack are still at risk of dying from subsequent complications. One of the most crucial steps medical staff can take is to first attempt to obtain accurate information

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<sup>111</sup> CAL. PENAL CODE § 13701.

from the survivor. As is the case with a lot of survivors of domestic violence, the survivor of a strangulation attack may not be able to speak in front of others, such as the survivor's spouse or partner or a family member such as a parent or child, and the medical staff member making first contact with the survivor should seek to speak to the survivor apart from these family members.<sup>14</sup> Once medical screening of the patient has begun, medical staff should ask questions about whether a strangulation may have occurred, even if the survivor has not disclosed that such an attack has occurred, or whether there are signs of such an attack. These questions can include statements such as whether a partner or anyone else has put their hands or another object around the throat of the survivor. It would also be imperative to ask how long the survivor believes pressure was applied to their neck and throat, emphasizing that even a second is significant. While questioning survivors about any such attack, medical staff should be attuned to the major signs and symptoms of strangulation noted above. The Emergency Nurses Association recommends that a forensic nurse examiner with specialized training in forensic examinations and legal testimony is the best suited person to question a survivor about suspected strangulation.<sup>112</sup>

As with any case of domestic violence, a survivor of strangulation must be fully informed, including what treatment is available and what steps should be taken. A survivor suspected of having been involved in a strangulation attack should be given a full assessment that includes a preliminary evaluation of the head and neck, in which a physician looks for external, visible signs of strangulation. It should also include a detailed documentation of any signs and symptoms that are exhibited, and any statements made by the survivor regarding what occurred. Should any of the signs or symptoms be presented, the examiner should advise the survivor to undergo further evaluation. This evaluation should include CT scans or Magnetic Resonance Imaging (MRIs) of

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<sup>112</sup> Vehling, *supra* note 83.

the neck and brain of the survivor to ensure that there is no internal or neurological damage. As mentioned before, carotid artery dissection is a very serious consequence from strangulation, and it is imperative that any damage done to the arteries be identified immediately. CT scans of the neck would allow examiners to ensure that the blood vessels are sound. MRIs would also allow the examiners to determine whether any damage has been done to the brain due to oxygen deprivation.

If the scans reveal that there are no dangers to the patient, the examiner should discharge the survivor with instructions to return for medical evaluation if they notice any of the signs or symptoms associated with strangulation. It is recommended that before discharging the patient, medical staff should keep the survivor admitted for at least one to two days for observation to ensure that none of the symptoms occur. Since some conditions may develop after the initial attack, it is imperative to have a complete and accurate documentation of signs and symptoms and understanding of what occurred to ensure that the survivor receives the aid required. If the scans reveal that there are dangers present, such as the presence of carotid dissection, the examiner should consult a trauma doctor or neurosurgeon about the next steps.

*v. Attorneys and Advocates.*

When working with a survivor of a strangulation attack, an attorney (e.g., a prosecutor or other counsel) or victim advocate should allow the survivor to explain what happened in their own words. While it is important to ensure that the attack is eventually understood in a chronological order, it is imperative that the attorney and advocate allow the survivor to explain what happened to them in a way that makes them feel comfortable. If an interviewer imposes their own interpretation of the events, the survivor may not feel encouraged to provide more detail. Instead, an attorney or advocate should listen with openness and empathy. An attorney or advocate should

also let the survivor know that anything the survivor is feeling is common and is perfectly justifiable. In many cases of domestic violence, a survivor may have strong feelings of anger, despair, or sadness, and because of that, they may feel like they are being unreasonable.

An attorney and advocate should ensure that they have an adequate referral system to connect survivors with needed resources. Some survivors of domestic violence may be suffering from the lasting physical and psychological effects of strangulation and need the assistance of counselors, medical professionals, or physical therapists to recover from their attack. Attorneys should not insert themselves in the role of therapist and should instead connect survivors with trained professionals. Additionally, if a prosecutor sees that a survivor may be in need of a victim advocate, they should reach out to the advocate themselves on behalf of the survivor to ensure the connection is actually made.

Importantly, a prosecutor, other attorney, or victim advocate should ensure that they are being supportive of the victim, but not unrealistic. They should not promise that an attacker will be brought to justice in the sense of a case outcome, as that decision falls to the jury.

While there are many “do’s” that an attorney and advocate should follow, there are several “don’ts” which they should avoid. One of the most important “don’ts” is to avoid being judgmental and blaming the survivor for what happened. The abuse is never the victim/survivor’s fault. The attorney/advocate should also avoid trying to compare the survivor’s experience to an experience of their own or another victim/survivor’s, instead approaching each survivor as an individual.

*vi. Wider Public Education.*

Strangulation is depicted in the media as a tight hold around someone’s neck for minutes, and as long as the perpetrator releases, the person survives and recovers completely unharmed. However, permanent damage from strangulation can occur within a matter of seconds. Hopefully,

with the dissemination of correct information about strangulation, we can prevent more cases and fatalities from occurring. Some additional avenues that can be used to disseminate proper knowledge about strangulation include news coverage, articles in magazines and journals, social media, trainings, and panels. There could also be value in illuminating the dangers of strangulation in school health classes or in public service announcements.

The recommendations provided are not an exhaustive list, but rather a starting point for ways to protect the lives of those affected by strangulation. It is our hope that by implementing some of the recommendations, lives can be saved that otherwise may have been lost.

## **V. FIREARMS.**

Each Orange County intimate partner violence fatality is significant, and one case from the last decade stands out as the deadliest mass killing in Orange County: The 2011 mass shooting in a Seal Beach salon that killed eight and wounded one. Stylists and clients were caught in a domestic dispute between the perpetrator and his ex-wife that turned lethal. Court documents from a restraining order granted in 2007 protecting the perpetrator's stepfather reveal the perpetrator was diagnosed with PTSD. The restraining order had barred the shooter from possessing firearms, but it had expired by the time of the 2011 shooting. The perpetrator and his ex-wife were recently divorced and involved in a custody battle, and the perpetrator had been denied his request for full custody of his son the day before the shooting. This tragedy illustrates many data points in the DVDRT's collected case summaries, highlighting the danger that is present when there is a confluence of several lethality factors such as a history of domestic violence, gun possession, a custody battle, and mental illness.

The lethality of gun violence, which is prevalent in America, is amplified in situations where intimate partner violence is present. Intimate partner violence in the home significantly increases the possibility that a dispute will turn deadly, especially for women. As noted by Professor Jane Stoever, who directs the UCI Law Domestic Violence Clinic and the Initiative to End Family Violence, “intimate partners with guns present the greatest fatal risk to women,”<sup>113</sup> increasing risk of femicide by 500%.<sup>114</sup> The United States is the most dangerous country in the developed world when it comes to gun violence against women;<sup>115</sup> women in the United States are 21 times more likely to be killed by a firearm than in any other country in the developed world.<sup>116</sup> Thus, to make the most impact in reducing intimate partner violence fatalities, one must address gun violence.

a. Firearms and Intimate Partner Violence Data in Orange County.

Forty-eight domestic violence perpetrators (65%) shot 81 (or 72%) of the 113 victims of intimate partner violence related deaths in Orange County in this eleven-year period. From 2006 to 2017, Orange County averaged nearly eight deaths per year from intimate partner gun violence. Firearms are by far the most common weapon used in Orange County for domestic violence homicides. The next-most-common method of killing was by knife, considerably below the frequency of killing by gun, comprising 12 of the cases, or 11%. As the Seal Beach massacre and

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<sup>113</sup> JANE K. STOEVER, *THE POLITICIZATION OF SAFETY* 247 (2019).

<sup>114</sup> Jane Stoever, *Firearms and Domestic Violence Fatalities: Preventable Deaths*, 53 FAM. L. Q. 183, 186 (2019) (citing Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study*, 93 AM. J. PUB. HEALTH 1089, 1090 (2003)).

<sup>115</sup> *Gun Violence in America*, EVERYTOWN FOR GUN SAFETY <https://everytownresearch.org/report/gun-violence-in-america> (last visited Apr. 6, 2021).

<sup>116</sup> *Id.*

other cases in our review show, intimate partner violence and gun possession can produce deadly—but possibly avoidable—outcomes.

*i. Deadly Combinations: Guns, Intimate Partner Violence, Poor Mental Health<sup>117</sup>, and Substance Abuse.*

Many perpetrators of the murder-suicides in our review may have kept their suicidal ideations private. However, in at least in one case, a family member had knowledge of the perpetrator’s suicidal thoughts and the family still had a handgun in the home.

This data makes clear that access to guns combined with suicidal ideations is the most dangerous lethality factor for intimate partner violence in Orange County. Murder-suicides comprise 44% of the 113 intimate partner violence fatalities. All but one of the murder-suicides involved a gun. This double tragedy frequently leaves children without a parent, as in one case reviewed in which the murder-suicide orphaned an eight-month-old baby.

Poor mental health can impair a person’s ability to handle major life transitions and losses, such as divorce and job loss. In the intimate partner violence context, it can have deadly consequences when guns are involved. Seven of the 25 domestic violence perpetrators who committed a murder-suicide with a gun had known mental illness, and an additional seven had a likely mental illness. Combined, 56% of the perpetrators of murder-suicides probably struggled with mental illness. The ease of pulling a trigger while in the throes of rage or depression brings a catastrophic and ultimate end to treatable disease.

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<sup>117</sup> Millions of people struggle with mental health issues and do not commit violence (see James L. Knoll IV & George D. Annas, *Mass Shootings and Mental Illness*, in GUN VIOLENCE AND MENTAL ILLNESS 81, 90 (2016)). The information in this report is noting observed factors underlying the Orange County domestic violence fatalities.

Alcohol and drugs worsen a mental health episode, and the combination often sparks violence.<sup>118</sup> This is reflected in the fact that six out of the 25 murder-suicide perpetrators (24%) had alcohol or drugs in their system. Of the nine suicides (with no corresponding homicide), six (67%) had alcohol or drugs in their system. Further, 25 shooters out of the total 48 (52%) showed signs of drug or alcohol use. Of the 60 victims of homicide (not suicide) by gunshot, 11 (18%) had alcohol or drugs in their system, which may have made these victims unable to see warning signs and protect themselves.

*ii. Life's Challenges Can Be a Powder Keg for Abusers with Guns.*

A challenging life event, such as financial distress, the end of a relationship, a move, or a new child, can indicate a lethality factor for intimate partner violence abusers, even those without mental health issues. Significantly, all nine of the couples in our data with known financial troubles or a lost job during this period experienced a murder-suicide. In at least three of the cases there was an impending or recent move: in one case a perpetrator moved from a beloved hometown in the Midwest to Orange County, in another an unwanted move was to a nursing home.

A change in the relationship is a particularly volatile time for intimate partner violence. It is well established that one of the most dangerous times for survivors of domestic abuse is when the victim decides to leave.<sup>119</sup> In Orange County DVDRT cases, relationship troubles including separation, a recent divorce, an affair, or child custody conflict reflected this reality, resulting in 17 gun deaths, nine by murder-suicide.

*iii. All Races, Ages, and Genders Are Vulnerable to Intimate Partner Gun Violence.*

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<sup>118</sup> Jill RachBeisel, Jack Scott & Lisa Dixon, *Co-Occurring Severe Mental Illness and Substance Abuse Disorders: A Review of Recent Research*, 50 PSYCHIATRIC SERVS. 1427, 1429 (1999).

<sup>119</sup> Stoeber, *supra* note 114, at 188 (citing Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study*, 93 AM. J. PUB. HEALTH 1089, 1090–91 (2003)).

In one tragedy, an Asian father shot his family of five, including his spouse and three children who were under the age of ten, and himself in a multiple murder-suicide. In another, a young Latinx couple was found dead in their new Anaheim Hills home from a murder-suicide. The Seal Beach murderer is Caucasian, as was his wife. An 80-year-old man took his wife out of a nursing care facility and shot her and himself. Gun violence is an equal opportunity killer.

Surprisingly, the 81 gunshot deaths are almost equally divided between 41 females and 40 males. As the goal is to save all lives imperiled by gun violence, it is important to remember that it is not only women who are vulnerable to gun violence. Eighty-three percent of the men killed in intimate partner violence homicide were killed with guns, albeit most of them killed themselves.

Even though most persons killed with guns in our study were between the ages of 18 and 65, children are not immune to gun violence: five of the six children who died were killed with guns. Studies reveal that having a child in the home who is not the abusive partner's biological child more than doubles the risk of femicide<sup>120</sup>; however, in Orange County, there were only two homes in these cases with non-biological children. In contrast, there were 18 cases with biological children living in the home who lost one or both of their parents. Seniors are not exempt from intimate partner gun violence either; seven of the 11 senior fatalities were killed with guns.

Given the prevalence of guns in America, guns are used by intimate partner violence perpetrators of all races to kill victims of all races. In Orange County, Asian and Latinx victims suffered the most intimate partner gun violence deaths, as 88% of both Latinx and Asian victims were killed by guns (there were 16 total Asian deaths compared to 26 total Latinx deaths). Guns were used to kill 71% of White victims in Orange County. National data indicates that Black

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<sup>120</sup> *Id.*

women are twice as likely to be fatally shot by an intimate partner than White women <sup>121</sup> ; in the Orange County cases reviewed, 33% of Black victims were killed by guns (total deaths of Black victims were six).

*iv. Legal Protections Fall Short.*

Sadly, legal protections and law enforcement interventions failed to protect some of the victims in this period. Three perpetrators in our review had restraining orders against them, which legally bar the person from gun possession. In one case with a restraining order, the perpetrator had a lengthy criminal history including domestic child abuse. This perpetrator struggled with depression and was possibly bi-polar. He shot and killed the grandmother of his child (the mother of his ex-girlfriend). Two other victims had restraining orders in place for their protection when they were killed. In one case, an Emergency Protective Order had been issued the day before the shooting. In another case, a Domestic Violence Restraining Order had been issued, but not yet served.

In addition, 13 perpetrators had a known history of domestic violence and still had access to a gun. Four perpetrators had a history of child abuse. Seven victims experienced stalking and threats of violence before they were killed. Of those stalkers, one had a known mental illness and committed a murder-suicide. Another had a probable mental illness in addition to alcohol and illicit drugs in his system when he killed. The fact that these victims experienced known histories of domestic violence meant that their abuse was likely known to the justice system, but this was not enough to save their lives. Hopefully it could be.

b. Recommendations for Preventing Intimate Partner Firearm Fatalities in Orange County.

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<sup>121</sup> Madeleine Carlisle & Melissa Chan, *Here's Why Domestic Violence Kills So Many Women and Children in America*, TIME MAG. (Oct. 17, 2019, 6:00 AM), <https://time.com/5702435/domestic-violence-gun-violence>.

As seen from this data, the number of firearm fatalities in Orange County is alarming. Stoever writes, “[P]art of what makes firearm violence and these tragedies so heartbreaking is that they are preventable.”<sup>122</sup> The review of cases shows combinations of data points that should be warning signs for professionals who encounter these factors in those affected by intimate partner violence.

*i. Enforce Disarming Laws.*

Decades of research verify that firearm possession substantially increases the likelihood of a lethal intimate partner violence attack.<sup>123</sup> Recognizing these risks, state and federal laws now restrict access to firearms by domestic violence offenders. However, implementation and enforcement gaps persist.<sup>124</sup> Nationwide, in the year prior to a lethal or near-lethal attack, approximately half of all female victims of intimate partner homicide and near-lethal domestic violence had a domestic violence restraining order or reported their abusive partner’s threatening or violent behavior to the police.<sup>125</sup>

The enforcement gap in Orange County is real and lethal. Three of the perpetrators in the DVDRT’s period of review for this report had a restraining order against them. As noted earlier, these cases represent only the tip of the iceberg, and even with the cases we reviewed, we had only a fraction of the full story, so it is likely that more intimate partner violence fatality victims had

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<sup>122</sup> Stoever, *supra* note 114, at 184.

<sup>123</sup> *Id.* at 185-86 (citing Aaron J. Kivisto et al., *Firearm Ownership and Domestic versus Nondomestic Homicide in the U.S.*, 57 AM. J. PREVENTIVE MED. 311, 311 (2019); Douglas J. Wiebe, *Homicide and Suicide Risks Associated with Firearms in the Home: A National Case-Control Study*, 41 ANNALS OF EMERGENCY MED. 771, 771 (2003); Douglas J. Wiebe, *Firearms in U.S. Homes as a Risk Factor for Unintentional Gunshot Fatality*, 35 ACCIDENT ANALYSIS & PREVENTION 711, 713–14 (2003); Garen J. Wintemute, *Guns, Fear, the Constitution, and the Public’s Health*, 358 NEW ENG. J. MED. 1421, 1421–24 (2008)).

<sup>124</sup> *Id.* at 184.

<sup>125</sup> *Id.* at 198-99 (citing Judith McFarlane et al., *The Use of the Justice System Prior to Intimate Partner Femicide*, 26 CRIM. JUST. REV. 193, 193–208 (2001)).

sought restraining orders. The disarm laws on the books for intimate partner violence perpetrators simply need to be swiftly enforced.

Weapons removal for domestic violence offenders should be a top priority for everyone in the criminal justice system. Although a party restrained by a temporary or permanent restraining order is barred from owning and possessing a firearm and ammunition, and possession of a firearm in violation of a family court order is a felony, it is often left up to the restrained party to obey the order and relinquish guns. Courts often do not follow through with receiving proof to the court that this was done. Further, there is often little follow-up to ensure the abuser does not have access to guns.<sup>126</sup> Stoever writes, “Studies of multiple jurisdictions reveal that ‘judges either haphazardly mention or completely ignore disarming amendments’ that prohibit firearm ownership by domestic violence offenders even though they are required to order domestic violence respondents to surrender firearms after making findings of domestic violence.”<sup>127</sup> In 2019, the California Department of Justice, Bureau of Firearms determined that approximately 5,750 individuals in California had guns despite being prohibited from firearm possession due to a domestic violence finding against them.<sup>128</sup>

Because of lack of enforcement of firearm prohibitions, a powerful legal tool to reduce gun violence is wasted. It is too easy for perpetrators, like the one who shot the mother of his ex-

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<sup>126</sup> SACRAMENTO CNTY. DOMESTIC VIOLENCE COORDINATING COUNCIL, ANNUAL DVDRT REPORT OCTOBER 2019 18 (2019).

<sup>127</sup> Stoever, *supra* note 114, at 195 (quoting Daniel W. Webster et al., *Women with Protective Orders Report Failure to Remove Firearms from Their Abusive Partners: Results from an Exploratory Study*, 19 J. WOMEN’S HEALTH 93, 94 (2010)).

<sup>128</sup> Stoever, *supra* note 114, at 208 (citing OFFICE OF ATT’Y GEN., CAL. DEP’T JUSTICE, AAPS 2018 ANNUAL REPORT TO THE LEGISLATURE: ARMED AND PROHIBITED PERSONS SYSTEM (2018), <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/armed-prohib-person-system-2018.pdf>).

girlfriend, to access weapons either by hiding them from the court or getting them illegally and then using the guns to commit intimate partner violence homicides.

First, to address the enforcement problem the court should hold a hearing within 48 hours of service of the restraining order requiring the abuser to show a receipt from law enforcement or a gun dealer for relinquished weapons. Currently, per the California Family Code Section 6389, a restrained party is required to bring the receipt of relinquishment to the court within 48 hours,<sup>129</sup> but since judges often do not set hearings under California Rules of Court Rule 5.495, the restrained party is often not held accountable and the guns may not be relinquished. SB 320, effective January 1, 2022, strengthens Cal. Fam. Code § 6389 to require judges to refer respondents in violation of the firearm prohibition to the prosecuting attorney. In addition, law enforcement, including probation and community corrections officers, should check with courts, the victim, and the offender to ensure this has been carried out.

A key piece of enforcing disarm laws involves addressing what Stoeberl calls, “the gendered knowledge gap.” Stoeberl explains:

The court forms to request temporary and permanent domestic violence civil protection orders [“restraining orders” in California] typically ask petitioners whether they know or believe the respondent possesses firearms<sup>130</sup>. . . . [R]esearchers conducting court observations report that judicial practices differ dramatically, with many judges entirely failing to inquire about firearm possession and others only asking the petitioner about the respondent’s ownership of firearms.<sup>131</sup> Statistically, not only is firearm ownership gendered, knowledge of firearms in the home is highly gendered, including within married couples. . . .

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<sup>129</sup> CAL. FAM. CODE § 6389.

<sup>130</sup> See, e.g., *DV-100 Request for Domestic Violence Restraining Order*, <https://www.courts.ca.gov/documents/dv100.pdf> (providing the petition for a civil domestic violence order approved by the Judicial Council of California).

<sup>131</sup> Ruth E. Fleury-Steiner, Susan L. Miller & Ava Carcirieri, *Calling the Shots: How Family Courts Address the Firearms Ban in Protection Orders*, 23 VIOLENCE AGAINST WOMEN 1140, 1142 (2017); Daniel W. Webster et al., *Women with Protective Orders Report Failure to Remove Firearms from Their Abusive Partners: Results from an Exploratory Study*, 19 J. WOMEN’S HEALTH 93, 94 (2010).

Multiple national surveys have established that women are often unaware of the existence of guns in the home and, if they are aware that a gun is in the home, studies of married heterosexual couples consistently find that husbands report more guns in the home than wives do. . . .<sup>132</sup> When courts rely on a petitioner's knowledge of the respondent's firearm possession to order the confiscation or surrender of firearms, the efficacy of the exercise depends on household members having knowledge about whether there are guns in the home and how they are stored.

Judges should presume that many litigants coming before them possess firearms, given increased gun ownership by individuals who use violence in relationships and the overall high rates of firearm ownership in America . . . .<sup>133</sup> [J]udicial officers should directly ask respondents about firearm possession and access, ensure surrender or confiscation of firearms, and instruct all respondents about firearm prohibitions for respondents found to have committed domestic violence; and domestic violence-related court orders must be entered in background check systems.<sup>134</sup>

Additionally, proactive searches of dangerous abusers would limit access to guns. Law enforcement should dedicate personnel to follow up with domestic violence offenders and make sure they handed in their guns, and question them and their households regarding any subsequent access to guns. Family court abusers who are on parole or probation can normally be legally searched for weapons.<sup>135</sup> County law enforcement agencies and probation should review court

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<sup>132</sup> Jens Ludwig, Philip J. Cook & Tom W. Smith, *The Gender Gap in Reporting Household Gun Ownership*, 88 AM. J. PUB. HEALTH 1715, 1716-17 (1998).

<sup>133</sup> Christopher Ingraham, *There Are More Guns than People in the United States, According to a New Study of Global Firearm Ownership*, WASH. POST (Jun. 19, 2018), [https://www.washingtonpost.com/news/wonk/wp/2018/06/19/there-are-more-guns-than-people-in-the-unitedstates-according-to-a-new-study-of-global-firearm-ownership/?noredirect=on&utm\\_term=.b328d77ab926](https://www.washingtonpost.com/news/wonk/wp/2018/06/19/there-are-more-guns-than-people-in-the-unitedstates-according-to-a-new-study-of-global-firearm-ownership/?noredirect=on&utm_term=.b328d77ab926) (reporting on Pew Research Center and Gallup polls conducted in 2017); see also Lydia Saad, *Self-Reported Gun Ownership in U.S. Is Highest Since 1993*, GALLUP (Oct. 26, 2011), <https://news.gallup.com/poll/150353/self-reported-gun-ownership-highest-1993.aspx> (concluding that 47% of Americans disclose having a firearm on their property); Harry Enten, *There's a Gun for Every American. But Less than a Third Own Guns*, CNN (Feb. 15, 2018, 6:02 PM), <https://www.cnn.com/2018/02/15/politics/guns-dont-know-how-many-america> (reporting on an in-person poll conducted by the General Social Survey in 2016 and recognizing that respondents may not have wanted to admit gun ownership in an in-person survey).

<sup>134</sup> Stoeber, *supra* note 114, at 194-96.

<sup>135</sup> *Samson v. Cal.*, 547 U.S. 843 (2006); *U.S. v. Knights*, 534 U.S. 112 (2001).

orders that prohibit gun possession and allow for the search and seizure of weapons. The review team could prioritize dangerous perpetrators by assessing the lethality factors established by Dr. Jacquelyn Campbell<sup>136</sup> and conduct security sweeps for illegal gun possession by such abusers.

Lastly, violations of gun restrictions need meaningful consequences. Violation of a domestic violence restraining order prohibition on gun possession is a felony punishable by jail time and a \$1,000 fine.<sup>137</sup> Even if a restrained party is exempt from state disarmament requirements, they can still be subject to prosecution under federal law.<sup>138</sup> When domestic abusers who are known to possess firearms fail to provide proof that they have surrendered their weapons, judges should set a hearing date and on that date see if the abuser is in violation of a court order or fails to appear. Then, the court can punish and/or take the individual into custody.

*ii. Public Health Messaging.*

Judges, attorneys, advocates, therapists, criminal legal professionals, and medical professionals can be effective vehicles for public health messaging and have opportunities to intervene with intimate partner violence victims and those who use abuse in relationships before the violence turns fatal.<sup>139</sup> Every intervener should approach the combination of guns and intimate partner violence as if they were the only person who was able to give the message of safety and take as much responsibility as possible.

In our review, three cases had a restraining order in place, 13 victims were killed by a person with a known history of domestic violence who still had access to a gun, and seven victims

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<sup>136</sup> Campbell, *Danger Assessment*, *supra* note 54.

<sup>137</sup> See, e.g., *DV-130 Restraining Order after Hearing*, <https://www.courts.ca.gov/documents/dv130.pdf>.

<sup>138</sup> *Id.*

<sup>139</sup> Stoeber, *supra* note 114, at 198 (citing April M. Zeoli & Daniel W. Webster, *Effects of Domestic Violence Policies, Alcohol Taxes and Police Staffing Levels on Intimate Partner Homicide in Large U.S. Cities*, 16 INJURY PREVENTION 90, 90 (2010)).

experienced stalking, threats, and warnings of violence before they were killed. Given these circumstances, each of these victims likely had some form of contact with either lawyers, advocates, police, doctors, nurses, or courthouse personnel while they experienced intimate partner violence. And yet they still died. Some lives may have been saved if these professionals could have sounded the alarm for urgent safety planning and intervention.

#### 1. Criminal Justice Professionals.

Criminal justice professionals, judges, prosecutors, law enforcement, and court personnel have an opportunity to intervene at a critical juncture.

Judges in particular have an important role in prevention. Stoever writes, “Judicial officers should realize that court intervention for domestic violence is typically a last resort that survivors turn to after social services and law enforcement responses have failed to remedy the abuse, and judges should be particularly concerned about safety.”<sup>140</sup> As such, judges should take advantage of domestic violence training offered through judicial associations so that they can better inform and protect the parties that come before them. University of California, Irvine School of Law’s Domestic Violence Clinic recently represented a client for a domestic violence restraining order renewal in which a family court judge denied the renewal and told the protected party who had suffered physical and verbal abuse for years prior, including three years of restraining order violations, that she could simply come back to the court and get another domestic violence restraining order if there was future abuse by the respondent. A victim killed by domestic gun violence does not have that opportunity.

With training, increased judicial awareness of lethality factors and high-risk times for intimate partner homicide (during separation from an abusive partner, immediately after a civil

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<sup>140</sup> *Id.* at 199.

protection order is issued, and after a protective order expires<sup>141</sup>), and communication to the parties about the risks they face, could offer protection for survivors and abusers who are in danger. Courts hearing family law and domestic violence matters would be especially poised to make petitioners and respondents aware of these dangers.

If there is no judicial finding that mandates gun surrender under federal and state laws, the court should recommend voluntary gun surrender, letting parties know that during significant life changes, possessing guns puts their families in danger.<sup>142</sup> Stoever writes, “Research on the power of judicial inquiry, instruction, and admonishment in shaping future behavior provides further support for this intervention.”<sup>143</sup>

There are other possibly life-saving messages and tools that can be communicated by law enforcement and other professionals. California has 52-week batterer intervention programs (BIP) that are statutorily mandated when there is a finding of domestic violence in criminal cases,<sup>144</sup> and are commonly ordered in domestic violence restraining order and family law cases.<sup>145</sup> Individuals who utilize violence can also voluntarily enter a program, which is recommended before violence escalates.

Social science research indicates that it is key that the person who is utilizing violence develops remorse and empathy. The 52-week group programs during which people continuously enter can be particularly effective because new entrants can learn from those who have taken responsibility and are applying the tools taught through the BIP, and group members can hold each other accountable.

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<sup>141</sup> *Id.* at 198.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> Cal. Penal Code § 1203.097(1).

<sup>145</sup> Cal. Fam. Code § 6343.

Dr. David Welch, longtime member of the Orange County DVDRT and experienced facilitator of BIP under California protocols, identifies the following factors for achieving successful outcomes: (1) helping clients set high expectations for themselves and for all aspects of their behavior, and avoiding blaming others for their actions; (2) counseling clients on any emotional, relationship, and other past trauma (domestic violence and/or child abuse in their own familial context growing up), recognizing that people who hurt people have often experienced abuse or trauma themselves that needs to be addressed; and (3) ensuring that clients learn and practice a wide variety of strategies and coping skills to assist them in achieving their expectations for safety of themselves in current and future relationships. Probation officers and lawyers who have ongoing contact with a known domestic violence abuser or victim should assess the parties for lethality factors, warn parties of their risk of harm, and direct them to resources for safety planning.

Statewide, less than half of people that enter BIP actually complete the program.<sup>146</sup> Further research is needed as to factors and strategies for BIP to effectively intervene in and prevent future abuse, and ways to fully implement best practices, including those identified by Welch.<sup>147</sup>

Although law enforcement and prosecutors can feel frustrated when a report of domestic violence does not result in a conviction, they should know that police presence at the scene of a domestic violence incident can prevent future violence. As Stoeber writes, “[R]esearch ... shows that abusive partners are less likely to recidivate after police make a report, regardless of whether the police make an arrest.<sup>148</sup> This is significant because some survivors wish to have the police

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<sup>146</sup> DAG MACLEOD ET AL., *BATTERER INTERVENTION SYSTEMS IN CALIFORNIA* 67 (2009).

<sup>147</sup> *See id.*

<sup>148</sup> *See* Richard B. Felson, Jeffery M. Ackerman & Catherine Gallagher, *Police Intervention and the Repeat of Domestic Assault*, 43 *CRIMINOLOGY* 563 (2005).

interrupt the violence and put the abusive partner on notice that the partner’s behavior is criminal, without desiring arrest and the collateral consequences of arrest and conviction.”<sup>149</sup>

All criminal professionals should understand and recognize the extreme danger in the combination of suicidal threats, intimate partner violence, and access to guns, and use all avenues to ensure the removal of weapons from abusers, including through the criminal legal process and with Gun Violence Restraining Orders and through enforcing civil Domestic Violence Restraining Orders.

## 2. Legal Advocates.

Legal advocates of intimate partner violence victims and perpetrators alike have an opportunity to counsel their clients to protect victims against gun violence during family court proceedings. Bringing awareness to the dangers of lethality factors can help prevent fatalities.

Stoever writes:

“As the co-chair of the Domestic Violence Death Review Team for the sixth-most-populous county in the United States, I review many cases of homicide or homicide-suicide with histories of family distress and dissolution in which couples were family-court involved. Many family court-involved individuals report feeling as if they are ‘losing everything,’ and as a Domestic Violence Clinic director, the cases in which the opposing party is denied any visitation with the parties’ children cause me pause and concern for my clients’ safety. With dissolving marriages, custody battles, or domestic violence charges and litigation, litigants’ worlds shift from the life they had established. This can be an especially important time for someone else to hold their guns. Advocates should engage in careful safety planning with petitioners in domestic violence cases.”<sup>150</sup>

## 3. Medical Professionals.

Medical professionals also have a window of opportunity in which to address intimate partner gun violence. The American Medical Association, American College of Physicians, and other medical associations encourage their members to ask patients or the parents of patients about

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<sup>149</sup> Jane K. Stoever, *Mirandizing Family Justice*, 39 HARV. J.L. & GENDER 189, 218–19 (2016).

<sup>150</sup> Stoever, *supra* note 114, at 197.

firearms in the home as routine safety questions and ways to ensure childproofing the home to educate patients about the dangers of unsecured firearms.<sup>151</sup> However, a majority of medical professionals still do not ask about firearms due to their discomfort with the conversation.<sup>152</sup> Studies show that physician counseling is effective; for example, one study found that 60% of families in a predominantly Latino pediatric clinic who received gun safety counseling either removed all guns from the home or improved gun-storage safety practices.<sup>153</sup> Additionally, this is another opportunity in which to address the gendered knowledge gap of guns in the home and be sure to bring fathers into the conversation.

The lethality of gun violence in the intimate partner violence context cannot be overstated. We need to take steps to ensure domestic abusers do not have access to firearms. Implementing gun safety legislation happens at the county level. Many of these proposed steps are simply simply raising awareness and implementing laws already in effect. Hindsight is 20-20. In all these cases we wish we could turn back time, see the warning signs, and intervene, preventing the loss and pain. With this data, we can rotate our hindsight to foresight to prevent similar scenarios in the future. In doing so, we protect our neighbors at risk and make safer communities for all.

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<sup>151</sup> Renee Butkus et al., *Reducing Firearm Injuries and Deaths in the United States: A Position Paper from the American College of Physicians*, 169 ANNALS OF INTERNAL MED. 805 (Nov. 20, 2018), <https://annals.org/aim/fullarticle/2709820/reducing-firearm-injuriesdeaths-united-states-position-paper-from-american>.

<sup>152</sup> Renee Butkus & Arlene Weissman, *Internists' Attitudes Toward Prevention of Firearm Injury*, 160 ANNALS OF INTERNAL MED. 821, 821–27 (Jun. 17, 2014), <https://www.acpjournals.org/doi/pdf/10.7326/M13-1960>.

<sup>153</sup> Paul S. Carbone, Conrad J. Clemens & Thomas M. Ball, *Effectiveness of Gun-Safety Counseling and a Gun Lock Giveaway in a Hispanic Community*, 159 ARCHIVES PEDIATRIC & ADOLESCENT MED. 1049, 1049–54 (2005).

## **VI. RESOURCES.**

There are many resources available for abuse survivors. The National Domestic Violence Hotline number is: (800) 799-7233. Orange County has four state-funded domestic violence agencies (Human Options, Interval House, Laura's House, and WTLC), legal help, and additional resources aimed at supporting and empowering abuse survivors. Many local resources can be found by visiting the website for the UCI Initiative to End Family Violence: <https://www.endfamilyviolence.uci.edu/resources.html>. For example, you can contact the Laura's House 24-hour crisis hotline (866-498-1511) if you have any questions about your relationship, or want to seek help for yourself or a loved one.

**VII. APPENDIX A.**

**Domestic Violence Fatality Cases\* by City**

City	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Anaheim					3	4		2	1	3	3	1	17
Brea			1						1				2
Buena Park						1							1
Costa Mesa						1	1						2
Fountain Valley				1	1	1							3
Garden Grove	1				1	1		1					4
Huntington Beach						3	1						4
Irvine		3					1						4
La Habra					1				1		1	1	4
Laguna Beach							1						1
Orange					1	1		1			1		4
Placentia								1			1		2
Santa Ana		1			1				1			1	4
Seal Beach						1						1	2
Westminster				1		1							2
Unknown/Various		1		1									2
OC Sheriff				1	1	1	3	1	5	3		1	16

\*For the purpose of this report, “cases” are defined as incidents in which decedents were recovered. Many of these cases (38%) involved multiple homicide victims, as shown in the next table.

**Domestic Violence Fatalities by City**

City	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Anaheim					4	5		2	2	4	4	1	22
Brea			5						1				6
Buena Park						2							2
Costa Mesa						2	1						3
Fountain Valley				1	3	1							5
Garden Grove	2				1	1		2					6
Huntington Beach						5	1						6
Irvine		3					1						4
La Habra					1				2		2	1	6
Laguna Beach							2						2
Orange					1	1		1			2		5
Placentia								1			1		2
Santa Ana		1			1				2			1	5
Seal Beach						8						2	10
Westminster				1		1							2
Unknown/Various		2		1									3
OC Sheriff				1	2	2	3	2	9	4		1	24

## VIII. APPENDIX B.

### *Danger Assessment*<sup>154</sup>

1. Has the physical violence increased in severity or frequency over the past year?
2. Does he own a gun?
3. Have you left him after living together during the past year?
  - 3a. (If you have never lived with him, check here: \_\_)
4. Is he unemployed?
5. Has he ever used a weapon against you or threatened you with a lethal weapon? (If yes, was the weapon a gun? check here: \_\_)
6. Does he threaten to kill you?
7. Has he avoided being arrested for domestic violence?
8. Do you have a child that is not his?
9. Has he ever forced you to have sex when you did not wish to do so?
10. Does he ever try to choke/strangle you or cut off your breathing?
  - 10a. (If yes, has he done it more than once, or did it make you pass out or black out or make you dizzy? check here: \_\_)
11. Does he use illegal drugs? By drugs, I mean “uppers” or amphetamines, “meth”, speed, angel dust, cocaine, “crack”, street drugs or mixtures.
12. Is he an alcoholic or problem drinker?
13. Does he control most or all of your daily activities? For instance, does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car? (If he tries, but you do not let him, check here: \_\_)
14. Is he violently and constantly jealous of you? (For instance, does he say: “If I can’t have you, no one can.”)

<sup>154</sup> Campbell, *Danger Assessment*, *supra* note 54.

**15.** Have you ever been beaten by him while you were pregnant? (If you have never been pregnant by him, check here: \_\_)

**16.** Has he ever threatened or tried to commit suicide?

**17.** Does he threaten to harm your children?

**18.** Do you believe he is capable of killing you?

**19.** Does he follow or spy on you, leave threatening notes or messages, destroy your property, or call you when you don't want him to?

**20.** Have you ever threatened or tried to commit suicide?

## Signs and Symptoms of Strangulation

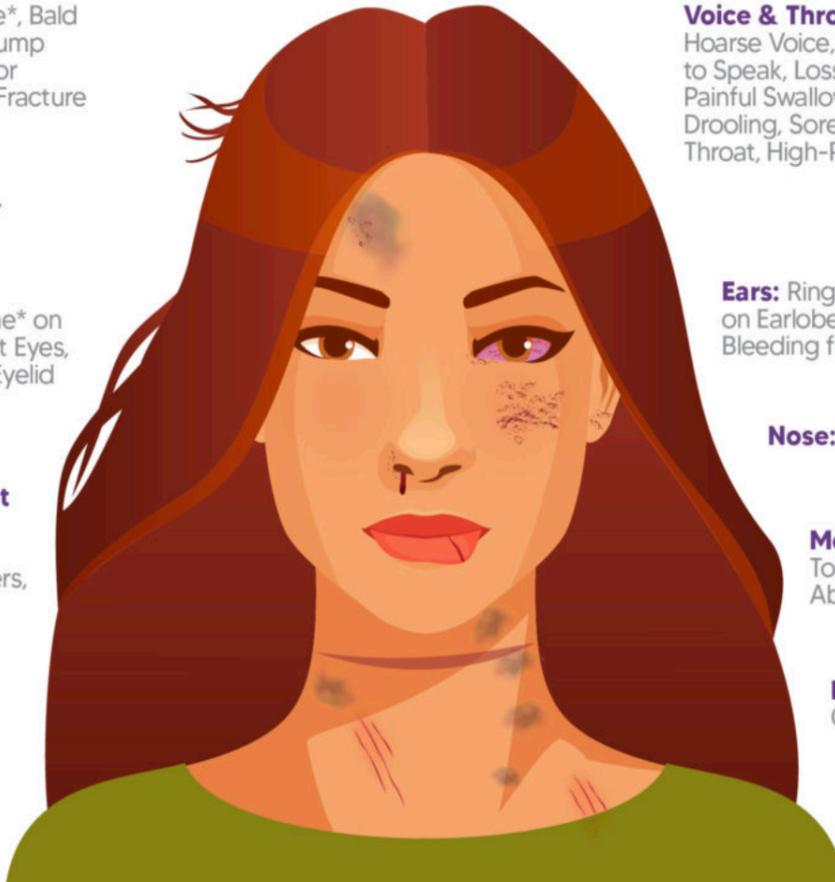
**Head & Scalp:** Petechiae\*, Bald Spots from Hair Pulling, Bump from Blunt Force Trauma or Falling, Concussion, Skull Fracture

**Face:** Petechiae\*, Slightly Red/Florid, Scratch Marks, Facial Drooping, Swelling

**Eyes & Eyelids:** Petechiae\* on Eyeball/Eyelids, Bloodshot Eyes, Vision Changes, Droopy Eyelid

**Under Chin, Neck, Chest & Shoulders:** Redness, Scratch Marks, Bruise(s) Made by Thumbs or Fingers, Abrasion(s), Fingernail Impressions, Swelling, Ligature Marks, Neck Pain

**Breathing Changes:** Difficulty Breathing, Inability to Breathe, Hyperventilation



**Voice & Throat Changes:** Raspy/ Hoarse Voice, Coughing, Inability to Speak, Loss of Voice, Trouble/ Painful Swallowing, Nausea, Vomiting, Drooling, Sore Throat, Clearing the Throat, High-Pitched Wheezing

**Ears:** Ringing Sound, Petechiae\* on Earlobe, Bruising Behind the Ear, Bleeding from the Ear

**Nose:** Bloody, Broken, Petechiae\*

**Mouth:** Bruising, Swollen Tongue/Lips, Cuts/ Abrasions, Petechiae\*

**Fingertips:** Faint Circular/ Oval Bruises

\*Petechiae - Red Spots

<sup>155</sup> *Signs of Strangulation*, TURNING LIVES AROUND, <https://180nj.org/get-help/information-for-survivors/signs-of-strangulation/> (last visited July 23, 2021).