

FAMILY VIOLENCE PROSECUTIONS

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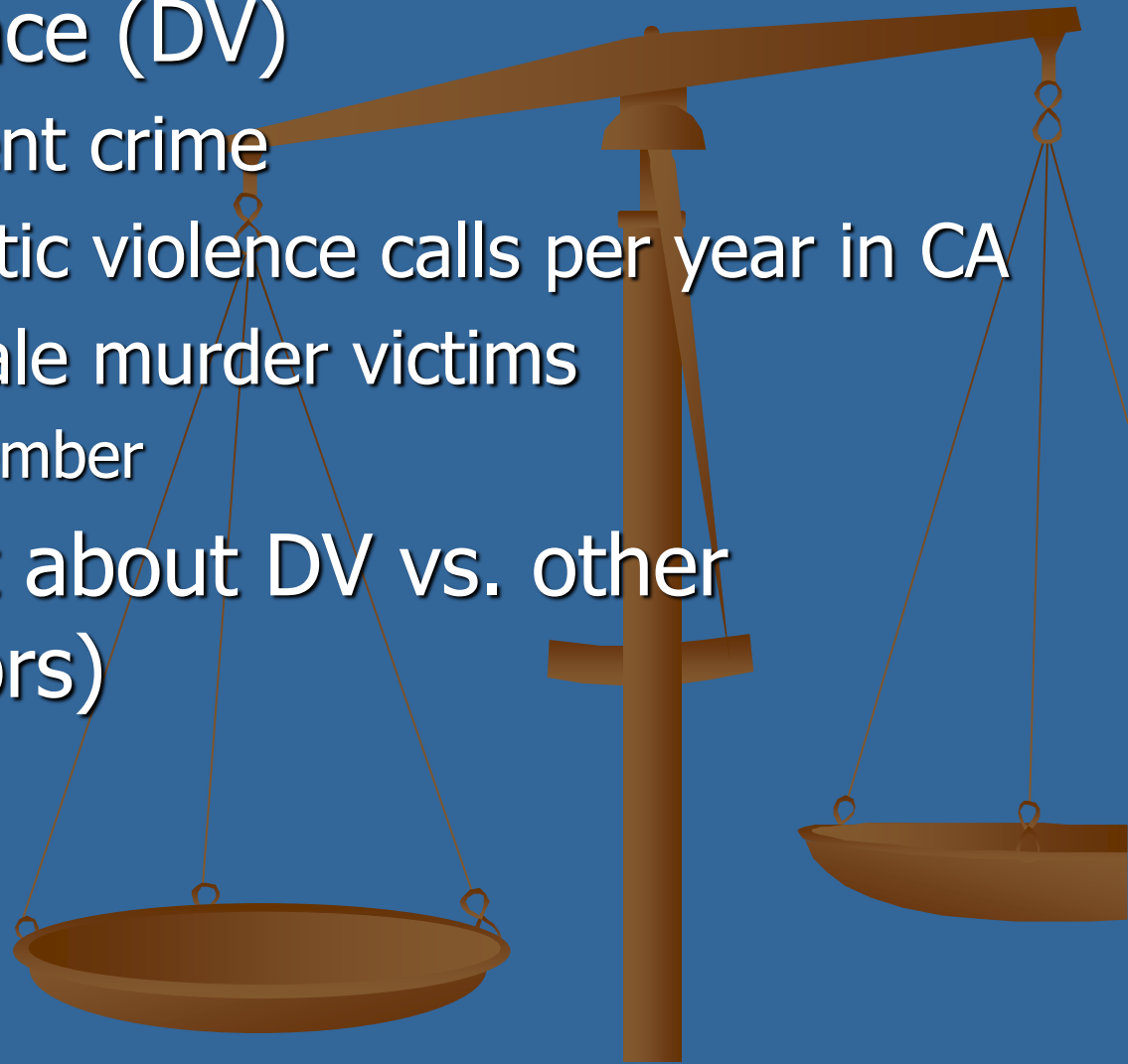
What's Ahead ...

- Domestic Violence Dynamics
- Criminal Justice System Process
- Domestic Violence Homicide

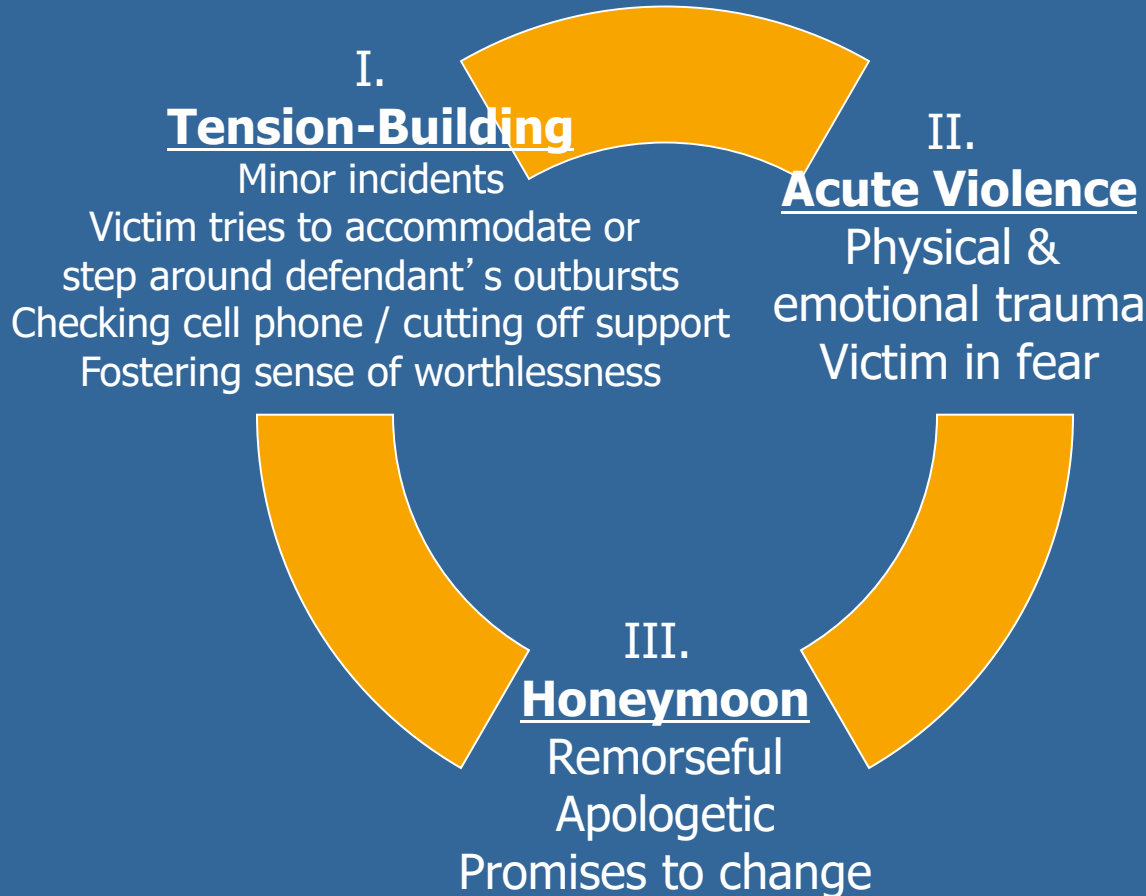


STATISTICS

- Domestic Violence (DV)
 - 15% of all violent crime
 - 174,649 domestic violence calls per year in CA
 - 50% of all female murder victims
 - 20% family member
- What's different about DV vs. other crimes? (2 factors)



Cycle of Violence



DOMESTIC VIOLENCE



EXAMPLES

What's Ahead ...

- Domestic Violence Dynamics
- Criminal Justice System Process
- Domestic Violence Homicide



TERMS

Defendant – accused of committing the crime

Prosecutor – works for the government and holds the defendant accountable by enforcing laws

Defense Attorney – defendant's lawyer

Public Defender – appointed defense attorney

TERMS

**Misdemeanor vs. Felony vs.
Wobbler**

Jail vs. Prison

Assault vs. Battery

TERMS

Murder vs. Manslaughter

1st vs. 2nd Degree Murder

Death Penalty Eligibility

Pre-Filing
Filing
Post-Filing

PRE-FILING

- Crime occurs
- Someone calls 911
 - Recorded
- Police arrive / Investigate
- Assigned to a detective / Investigate

FILING

- Do we believe a crime occurred and can we prove it beyond a reasonable doubt?
 - Corroboration
 - Ethics of defense attorneys vs. prosecutors
- If a case should be filed, do we file a misdemeanor or a felony?

Common Charges in DV Cases

MISDEMEANORS

- PC 243(e)(1)
 - DV with no injury
- PC 594(a)
 - Vandalism
- PC 166
 - Violation of a court order
- PC 602
 - Trespassing

WOBBLERS

- PC 273.5
 - (DV w/ injury)
- PC 422
 - Criminal Threats
- PC 245
 - Assault
- PC 136.1
 - Witness intimidation
- PC 273a(a)
 - Child Abuse

FELONIES

- PC 187
 - (Murder / Att. Murder)
- PC 12022.7
 - Allegation of Great Bodily Injury
- PC 12022.5
 - Personal Use of a Firearm

Felony v. Misdemeanor (DV)

FELONY	MISDEMEANOR
Serious Bodily Injury	Minimal Injuries
History of >2 Assaults	No felony convictions for assault
Prior DV crimes	No DV priors
Weapon Used	Weapon brandished
Very Vulnerable Victim	

POST-FILING

- ARRAIGNMENT
 - Bail / OR / Protective Order
 - Custody status → very important

- A protective order with a stay away provision will be issued in (nearly) every single domestic violence case

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

FOR COURT USE ONLY

PEOPLE OF THE STATE OF CALIFORNIA

vs.

DEFENDANT:

CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE

(CLETS - CPO) (Pen. Code, §§ 136.2, 1203.097(a)(1),
136.2(i)(1), 273.5(j), 368(f), and 646.9(k))

ORDER UNDER PENAL CODE, § 136.2 MODIFICATION

PROBATION CONDITION ORDER (Pen. Code, § 1203.097)

ORDER UNDER: PENAL CODE, § 136.2(i)(1) PENAL CODE, § 273.5(j)

PENAL CODE, § 368(f) PENAL CODE, § 646.9(k)

CASE NUMBER:

This Order May Take Precedence Over Other Conflicting Orders; See Item 4 on Page 2.

PERSON TO BE RESTRAINED (complete name):

Sex: M F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

- This proceeding was heard on (date): _____ at (time): _____ in Dept.: _____ Room: _____ by judicial officer (name): _____
 - This order expires on (date): _____ . If no date is listed, this order expires three years from date of issuance.
 - Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
 - FULL NAME, AGE, AND GENDER OF EACH PROTECTED PERSON:
 - For good cause shown, the court grants the protected persons named above the exclusive care, possession, and control of the following animals:
 - The court has information that the defendant owns or has a firearm or ammunition, or both.
- GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT**
- must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
 - must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.
 The court finds good cause to believe that the defendant has a firearm within his or her immediate possession or control and sets a review hearing for (date): _____ to ascertain whether the defendant has complied with the firearm relinquishment requirements of Code Civ. Proc., § 527.9. (Cal. Rules of Court, rule 4.700.)
 The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f). The defendant is not required to relinquish this firearm (specify make, model, and serial number of firearm): _____
 - must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
 - must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise. The court finds good cause not to make the order in item 10.
 - must be placed on electronic monitoring for (specify length of time): _____ . (Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv) and Pen. Code, § 136.2(i)(2).)
 - must have no personal, electronic, telephonic, or written contact with the protected persons named above.
 - must have no contact with the protected persons named above through a third party, except an attorney of record.
 - must not come within _____ yards of the protected persons and animals named above.
 - must not take, transfer, sell, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals described in item 5.
 - may have peaceful contact with the protected persons named above, as an exception to the "no-contact" or "stay-away" provision in item 12, 13, or 14 of this order, only for the safe exchange of children and court-ordered visitation as stated in:
a. the Family, Juvenile, or Probate court order in case number: _____ issued on (date): _____
b. any Family, Juvenile, or Probate court order issued after the date this order is signed.
 - The protected persons may record any prohibited communications made by the restrained person.
 - Other orders including stay-away orders from specific locations:

Executed on: _____ (DATE)

(SIGNATURE OF JUDICIAL OFFICER)

Department/Division:

POST-FILING

- PLEA
 - Types of Plea Arrangements
- TRIAL

POST-FILING

- Jury Trial
 - Civil vs. Criminal
 - How many jurors
 - How many need to agree
- Two main issues

POST-FILING

- Jury Trial



Recanting/Minimizing- Common Themes

- “I attacked the defendant first.”
- “Someone else actually caused the injuries.”
- “It never really happened; I was just mad.”
- “I don’t remember.”

EXAMPLES

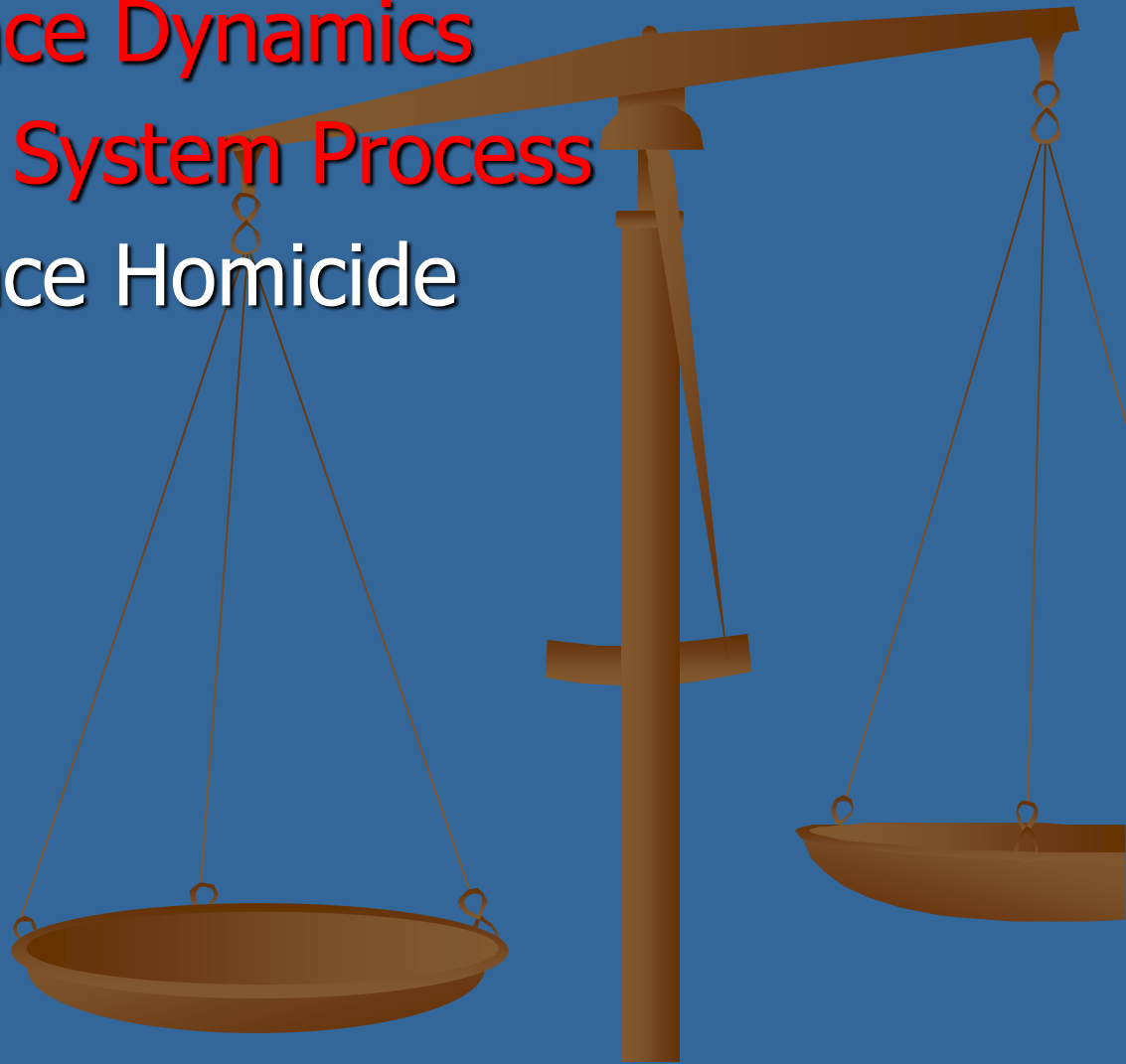


SENTENCING

- Exposure
 - Felony DV → 4 years
 - Misdemeanor → 1 year CJ
- Prior “Strike” (serious or violent)
 - Any felony DOUBLES maximum sentence
 - If current felony is also a strike x2 +5
 - No impact on misdemeanors

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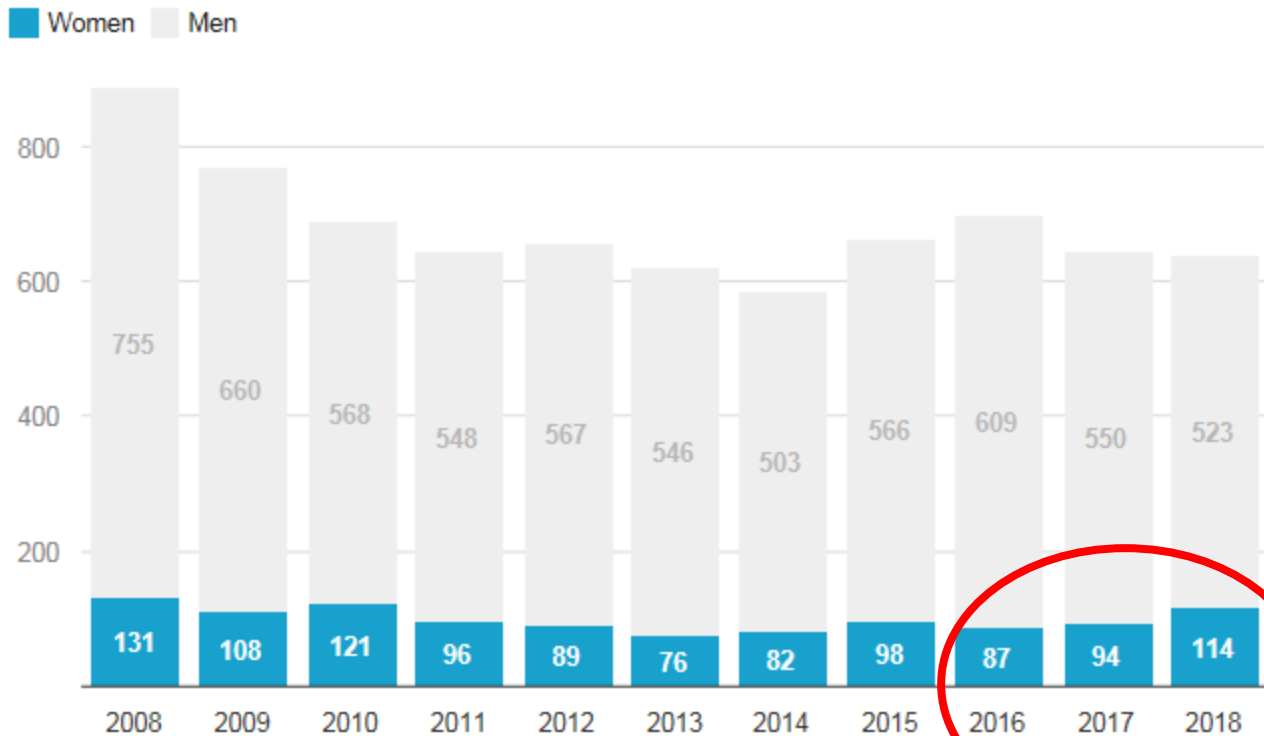


STATISTICS

- Why homicide is a good measure
 - Underreported?
 - Grey area?
 - Limitation
- Most common types of homicides in LA

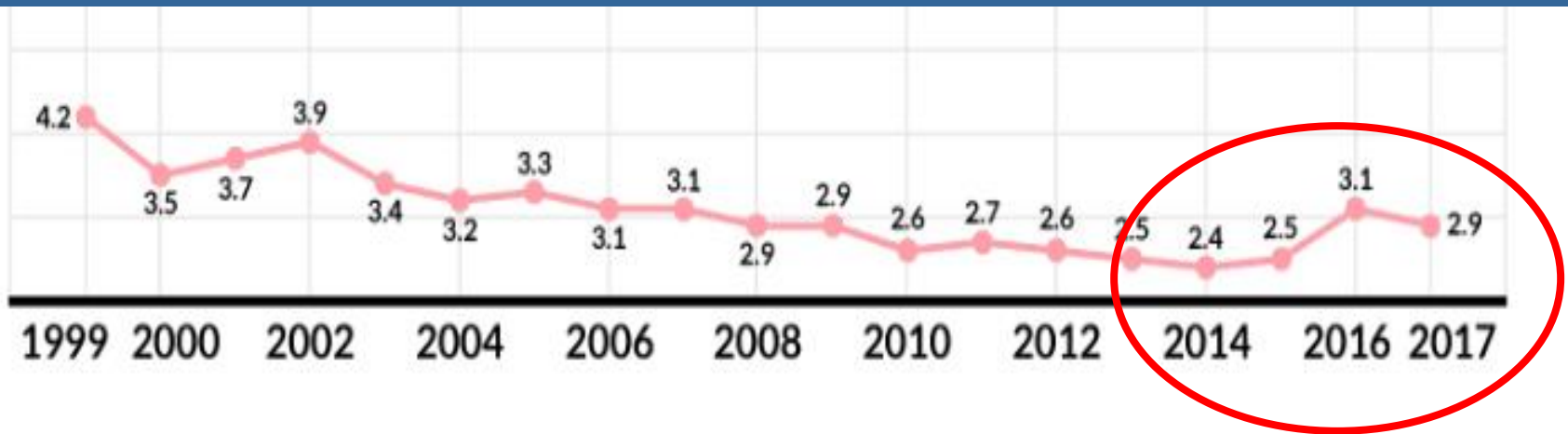
LA COUNTY FEMALE HOMICIDE RATE

Last year's toll was the highest since 2010.



Source: Homicide Report

NATIONAL FEMALE HOMICIDE RATE



*1999 to 2017

Note: Age-adjusted death rates per 100,000 for the total population are based on the 2000 U.S. standard population.

Source: CDC Wonder

Created by: [Security.org](https://www.security.org)

STATISTICS

- Pretend you're a judge...

FIREARMS (nationally)

- According to a CDC study, more female intimate partners are killed by firearms than by all other means combined.
- Firearms in the household increase the odds of lethal versus nonlethal violence by a factor of 6.1 to 1.

Ranking	State	Number of Female Homicide Victims	Homicide Rate per 100,000 Females
1	Alaska	14	3.96
2	Louisiana	63	2.64
3	Arkansas	34	2.23
4	Nevada	30	2.03
5 (tie)	South Carolina	52	2.01
5 (tie)	Tennessee	69	2.01
7	Arizona	68	1.92
8	Montana	10	1.91
9	Vermont	6	1.90
10	Georgia	96	1.80

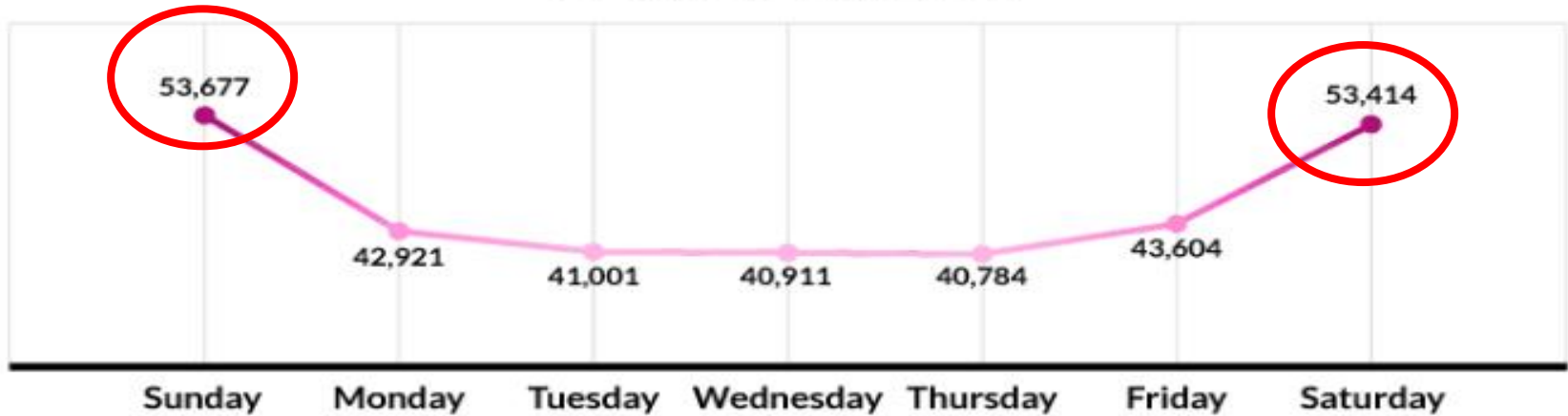
STATISTICS

- CA laws regarding domestic violence and firearms
- Filing Days

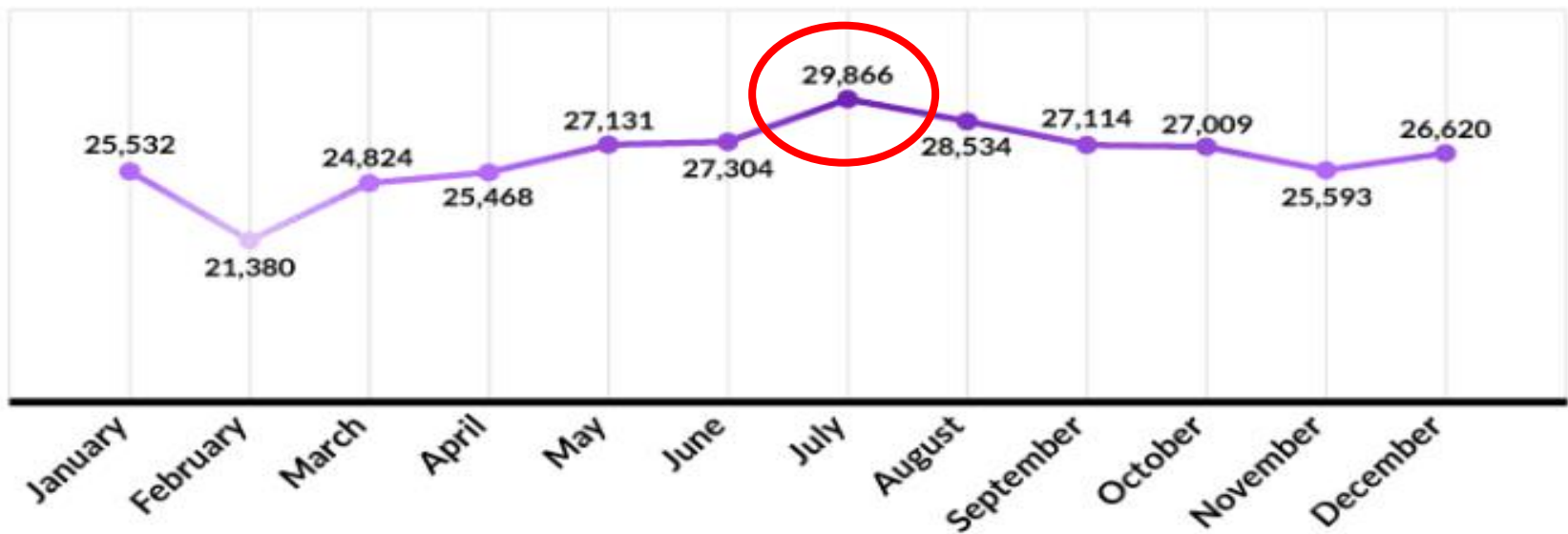
STATISTICS

- Disclaimer re: Mental Health
- Anecdotal Evidence
 - Cases

BY DAY OF THE WEEK



BY MONTH



Note: Figures are based on statistics between 1999 and 2017.

Source: CDC Wonder

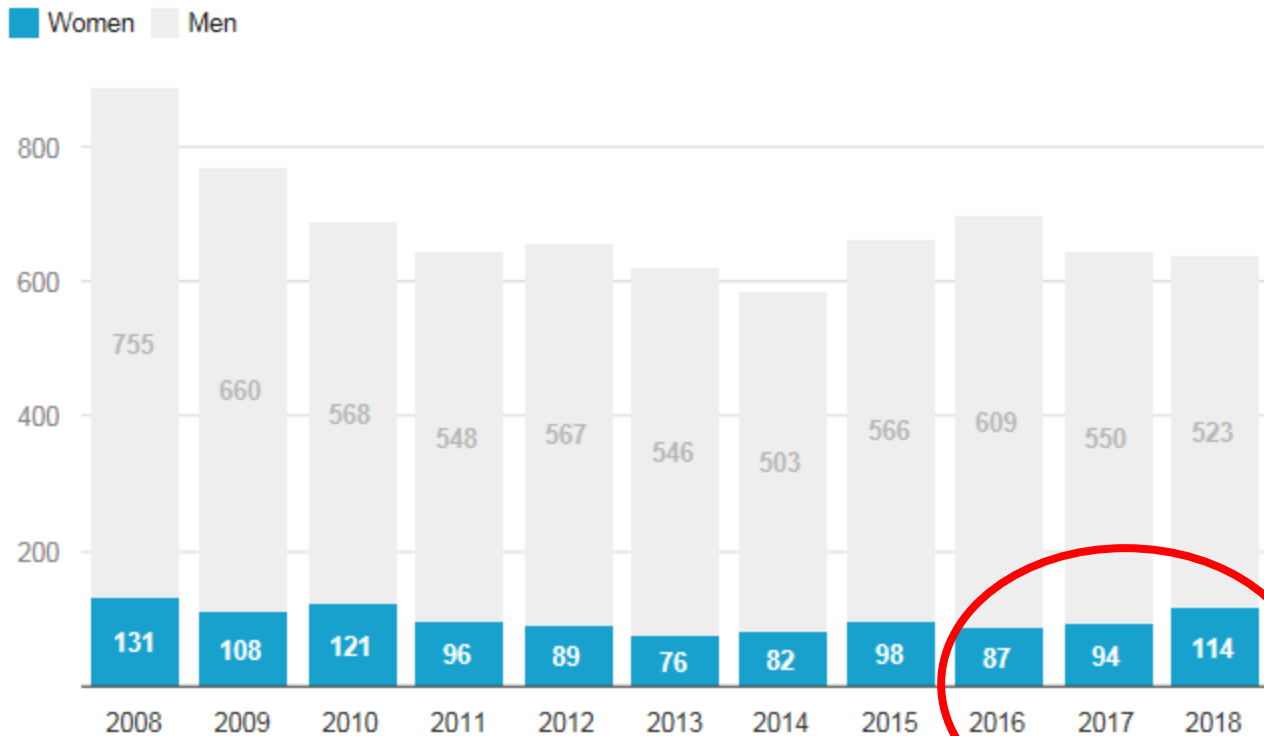
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STATISTICS

- A domestic violence fatality review study in New Mexico documented that alcohol and drugs were present in 65 percent of domestic violence homicides between 1993 and 1996.
- In one study of 272 males entering treatment for battering or alcoholism, the odds of any male-to-female aggression were 8 to 11 times higher on days they drank than on days they did not.

LA COUNTY FEMALE HOMICIDE RATE

Last year's toll was the highest since 2010.



Source: Homicide Report

STATISTICS

- Recent state laws
- Socioeconomic conditions
- Age of the population

- COMMON SENSE



Being there for Victims

Protecting their Rights and Prosecuting their
Abusers



Violence upon a person,
whether perpetrated by a
complete stranger or a loved
one, is criminal conduct and
should be prosecuted in a
just and ethical manner.

Public safety in the streets loses much of its moral
impact if personal safety in the home is not enforced.

REFERENCE

National Institute of Justice

“Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges.”

<https://www.ncjrs.gov/pdffiles1/nij/225722.pdf>

American Homicide Statistics

<https://www.security.org/resources/american-homicides/>

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