
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 1220 **Hearing Date:** April 24, 2018
Author: Gaines
Version: April 3, 2018
Urgency: Yes **Fiscal:** Yes
Consultant: GC

Subject: *Domestic Violence: Lethality Assessment Tools*

HISTORY

Source: Author sponsored

Prior Legislation: None

Support: None known

Opposition: None known

PURPOSE

The purpose of this bill is to require that every law enforcement agency in the state to develop and adopt a lethality assessment tool for use in responding to domestic violence calls by July 1, 2018. The bill would additionally require the Department of Justice (DOJ) to develop a model lethality assessment tool for guidance and potential adoption by local law enforcement agencies by June 1, 2018.

Existing law states that the Commission on Peace Officer Standards and Training shall implement a course or courses of instruction for the training of law enforcement officers in California in handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. When appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training. (Pen. Code § 13519 subd. (a).)

Existing law states that the course of basic training for law enforcement officers shall include adequate instruction in the procedures and techniques described below (Pen. Code § 13519 subd. (c)(1)-(17).):

- Provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.
- Legal duties imposed on peace officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

- Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.
- The nature and extent of domestic violence.
- The signs of domestic violence.
- The legal rights of, and remedies available to, victims of domestic violence.
- The use of an arrest by a private person in a domestic violence situation.
- Documentation, report writing, and evidence collection.
- Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2.
- Tenancy issues and domestic violence.
- The impact on children of law enforcement intervention in domestic violence.
- The services and facilities available to victims and batterers.
- The use and applications of this code in domestic violence situations.
- Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.
- Verification and enforcement of stay-away orders.
- Cite and release policies.
- Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

Existing laws states that the guidelines developed by the commission shall also incorporate the foregoing factors. (Pen. Code § 13519 subd. (d).)

This bill requires that every law enforcement agency in the state shall develop and adopt a lethality assessment tool for use in responding to domestic violence calls by July 1, 2018.

This bill requires that DOJ develop a model lethality assessment tool for guidance and potential adoption by local law enforcement agencies by June 1, 2018.

This bill defines, for the purposes of this section, a “lethality assessment tool” is a tool used to assist law enforcement in determining the level of risk a victim of domestic violence faces from his or her abuser.

COMMENTS

1. Need for This Bill

According to the author:

Women, primarily, are at risk of partner violence, up to and including death, and often these fatal incidents are preceded by behavior that in hindsight appears predictive of the fatal event.

For example, in the first senate district, in 2017, Lincoln resident Renee O’Neal was murdered by her former boyfriend.

Prior to her death, O’Neal had filed a restraining order against her ex and relocated, but he had continued threatening and harassing her, stalking her,

breaking into her home, and stealing and damaging her property. He exhibited troubling signs that possibly predicted his later lethal violence against Ms. O'Neal.

To adequately protect victims of domestic violence, it's incumbent on our state to try to develop predictive measures that might more accurately gauge the risk domestic violence victims face from their abusers.

Some states use a "lethality assessment" tool that can be utilized by law enforcement officers and the courts to help assess the likelihood of future violence against domestic violence victims.

Lethality Assessments, or Danger Assessments, as they are also referred to, use a series of questions about the abuser's recent behavior to establish a graded scale of future risk for the abused party.

The assessment score can trigger a protocol of care and intervention for the victim which, according to the study "Lethality Assessment Program for First Responders" Report," from the Maryland Network Against Domestic Violence, is often lacking for victims. The following data are from that report:

"1) Only 4% of domestic violence murder victims nationwide had ever availed themselves of domestic violence program services;

"2) In 50% of domestic violence-related homicides, officers had previously responded to a call there; and 3) Re-assault of domestic violence victims in high danger was reduced by 60% if they went into shelter. The goal of the LAP is to prevent domestic violence homicides, serious injury, and re-assault by encouraging more victims to utilize the support and shelter services of domestic violence programs."

Developing the Lethality Assessment is a first step. Ultimately, implementing its use throughout our entire penal and support systems will aid women in living safer lives and make it less likely that another Renee O'Neal loses her life in what appear to be predictable and preventable circumstances.

2. Domestic Homicide

In the 1970s and 1980s, an abundance of domestic violence disputes were filed and spurred a growing awareness in the prevalence and severity of the intimate partner violence. The awareness was coupled with increased criticism of the police and how they were not adequately responding to victims of domestic violence.¹

The result of insufficient and uncompleted police action may be fatal. Based on the Bureau of Labor Statistics from 1998 to 2002, 73% of domestic violence victims were female. Three-fourths of the persons who committed family violence were male. Murder was less than half of

¹ Meg Townsend, "Law Enforcement Response to Domestic Violence Calls for Service," n.d., 109.

1% of all domestic violence. About 22% of total homicides in 2002 were family murders. Of all murders of females in 2002, family members were responsible for 43%.²

Research identified key risk factors for domestic homicide:

- A prior history of domestic violence.
- An estrangement, separation, or an attempt at separation by partner.
- Access to/ownership of guns.
- Use of weapon in prior abusive incidents.
- Threats with weapons.
- Serious injury in prior abusive incidents.
- Threats of suicide.
- Drug or alcohol abuse.
- Forced sex of partner.
- Threats to kill victim
- Obsessiveness/extreme jealousy/extreme dominance.
- Restraining order or order of protection against perpetrator.³

This bill requires that every law enforcement agency in the state shall develop and adopt a lethality assessment tool for use in responding to domestic violence calls by July 1, 2018. Additionally, this bill requires that DOJ develop a model lethality assessment tool for guidance and potential adoption by local law enforcement agencies by June 1, 2018.

3. Maryland Lethality Assessment Program (LAP)

In 2000, the Maryland Network against Domestic Violence set the goals of identifying victims at high risk for homicide by an intimate partner and creating a plan to assist them with decreasing that risk. The committee included advocates, police officers, researchers, and professionals from related disciplines. Four research findings studies on intimate partner homicide were utilized.⁴

- Nearly half of domestic homicide offenders had been arrested in the year prior to the homicide;
- Women do not access domestic violence services at high rates;
- There is a significant reduction in risk of severe assault when victims utilize the services of a domestic violence advocacy program; and
- Abused women who used community-based domestic violence services were rarely the victim of murder or attempted murder.⁵

When a police officer responding to the scene of a domestic violence incident, the officer must determine that there is a “manifestation of danger”. Police officers use the following criteria (1) the officer believes that an assault or other violent act has occurred whether or not there was probable cause for arrest, (2) the officer is concerned for the safety of the victim once they leave the incident scene, (3) the officer is responding to a domestic violence call from a victim or at a

² Matthew R. Durose et al., “Family Violence Statistics: Including Statistics on Strangers and Acquaintances: (412162005-001)” (American Psychological Association, 2005), <https://doi.org/10.1037/e412162005-001>.

³ Neil Websdale, “Lethality Assessment Tools: A Critical Analysis,” 2000, 10.

⁴ “Maryland Network Against Domestic Violence,” *Maryland Network Against Domestic Violence* (blog), accessed April 9, 2018, <https://mnadv.org/>.

⁵ “Police Departments’ Use of the Lethality Assessment Program: A Quasi-Experimental Evaluation,” n.d., 109.

location where domestic violence had occurred in the past, or (4) the officer has a “gut feeling” that the victim is in danger.

After danger is detected, Maryland’s LAP involves two steps. First, the officer uses a brief 11-item risk assessment, a lethality screen, to identify victims at high risk of homicide. Second, people that screen in as high risk based on the Lethality Screen are put in immediate telephone contact with a collaborating social service provider who provides them with advocacy, safety planning, and referral.

Between 2006 and 2012, officers have administered more than 56,000 screens. During that time period, 53% of victims screened at high risk with 57% of those talking with the advocate at the scene and 31% following up with the agency.

California’s domestic violence procedures may not fully resemble the Maryland LAP program, but LAP provides an example of procedures and techniques to measure lethality of domestic violence.

This bill would require each law enforcement agency adopt an LAP program, unlike Maryland which adopted a statewide model. This bill would however require DOJ to develop a model program.

4. Related Legislation

SB 1331 (Jackson): SB 1331 requires the Commission on Peace Officers Standards and Training’s (POST) domestic violence training course include procedures and techniques for assessing lethality or signs of lethal violence in domestic violence situations. Much like the Maryland model, this would be a statewide approach to the issue, as opposed to the present bill that requires that the DOJ develop the model and each agency develop a separate model. POST is already tasked with the majority of law enforcement training in the State of California and already trains law enforcement agencies in California on issues in and around domestic violence. SB 1331 was passed out of Senate Public Safety on April 17, 2018.

AB 2136 (Bonta): AB 2136 Bonta requires the County of Alameda to develop a lethality assessment to develop tools for first responders to assess the lethality of domestic violence perpetrators in order to inform their decisions. Currently, AB 2136 has been referred to the Assembly Appropriations’ suspense file. The bill requires the program to investigate which strategies reduce domestic violence fatalities, the number of domestic violence survivors that have fewer violent incidents with their partner after contact with first responders, and the number of first responders that direct domestic violence survivors to resources. The bill requires the Office of the District Attorney in the County of Alameda to annually prepare a report on the progress of the program and to prepare a final report to the Legislature on April 1, 2023.