

# The Regilla Project:

A Review of BPH Suitability Hearing Transcripts to Assess Frequency and Consideration of Intimate Partner Violence among Women Convicted of Homicide Offenses

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# The Regilla Project at SLS: An Overview

- Goal: Estimate how many women nationwide are incarcerated for IPV-related homicides
- Methods:
  - 50-state analysis of post-conviction relief available to IPV survivors
  - Review of BPH suitability hearings transcripts
- Next Steps:
  - Survey of people incarcerated for homicide convictions in female prisons in CA and other states (July 2023 - CCWF; Nov 2023 - CIW)

# What Is Criminalized Survival?

- Sentencing Enhancements
- Exclusion from “Self-Defense” Defenses
- Effects of Trauma and Traumatic Brain Injury (TBI)
- Gender Bias



*Rosemary Dyer*

# Estimated Impacted Population

- New York Study (2005): **67% of women** who were convicted of killing someone close to them had been abused by that person.
- U.S. Department of Justice Study (1995): **44% of wife defendants** had been assaulted by their spouse at or around the time that they killed their partner.
- In 2012, a California State Senator noted that **93% of women** incarcerated for killing their partners in the state had been battered by those partners.
- As of Spring 2022, **3,699 people** in CDCR prisons were identified as female.

# Effects of Battering Evidence in California Criminal Cases

- CA allows effects of battering evidence in trials. (*Cal. Evid. Code § 1107*)
  - Testimony may include describing “the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence.”
- This evidence:
  - Cannot be used against a defendant to prove they are an abuser.
  - Is not alone a defense; may support a justifiable or excusable homicide claim.

*(Cal. Evid. Code § 1107)*

# Effects of Battering Evidence in BPH Suitability Hearings

- BPH panels must:
  - Consider whether an incarcerated person suffered from “Battered Woman Syndrome” when convicted and whether it contributed to their offense.  
*(Cal. Code Regs. tit. 15, §§ 2000(7), 2281(d)(5))*
  - Give “great weight” to evidence of “the effects of battering” on any incarcerated person with a pre-1996 conviction.  
*(Cal. Pen. Code § 4801(b))*
- BPH panels shall not use a survivor’s testimony about IPV to support a finding that they lack “insight” into the causes of their crime.  
*(Cal. Pen. Code § 4801(b)(3))*
- BPH may investigate whether BWS played a role in the commitment offense.  
*(Cal. Code Regs. tit. 15, § 2830)*

# BPH Suitability Hearing Transcript Analysis Results

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# Methodology

## Identify Cases Where Homicide Was Related to IPV

**Includes:** person was incarcerated for killing their abuser and/or abuse directly contributed to homicide (e.g., failure to protect child from abusive partner).

**Does not include:** IPV was indirect factor (e.g., person “snapped” as a result of previous trauma such as IPV).

## Create Coding Guide

Received input from Executive Officer of BPH, experts in field of IPV, and through group discussions.

Development was finalized using intercoder reliability techniques. All discrepancies were resolved by discussion.

Informed by Danger Assessment Tool.

## Apply Coding Guide

Included:

1. Risk factors in life history
2. Victim characteristics
3. How homicide related to IPV
4. Information on formal IPV hearings and programming
5. Whether IPV was discussed in parole hearing
6. Parole granted or denied
7. Indications of TBI/strangulation in life history

# Sample

N = 136 (97%) individuals from  
CIW or CCWF who appeared  
before BPH in 2021

N = 96 (69%) cases  
involved homicide  
(based on BPH info)

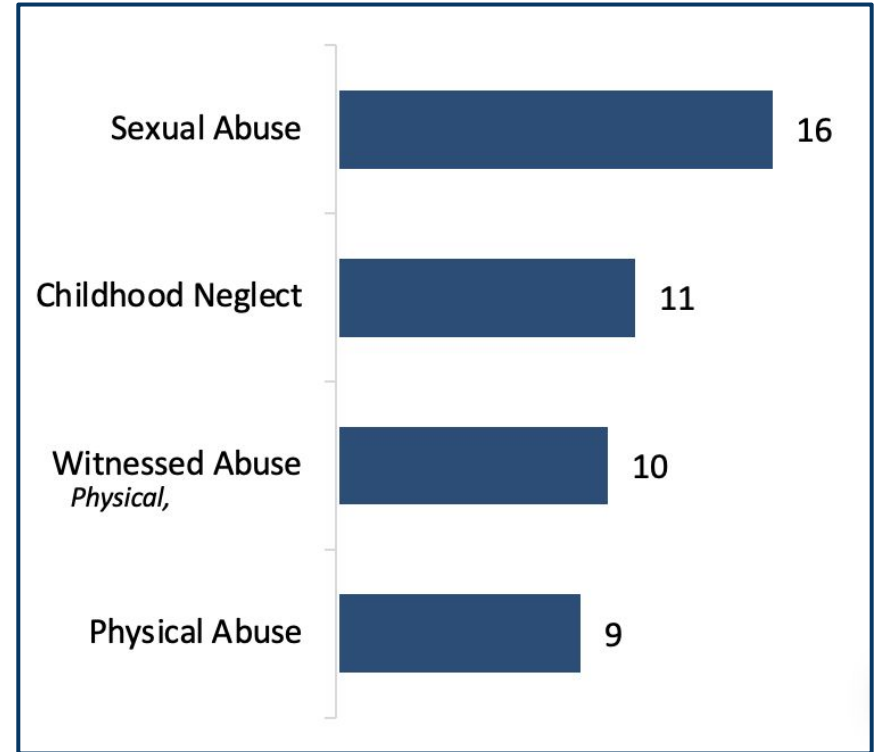
N = 23  
survivor-defendants  
whose crime was  
explicitly linked to  
experience of IPV

**Final N = 23  
IPV-related  
Homicides**

**10** Survivors with  
pre-1996 convictions

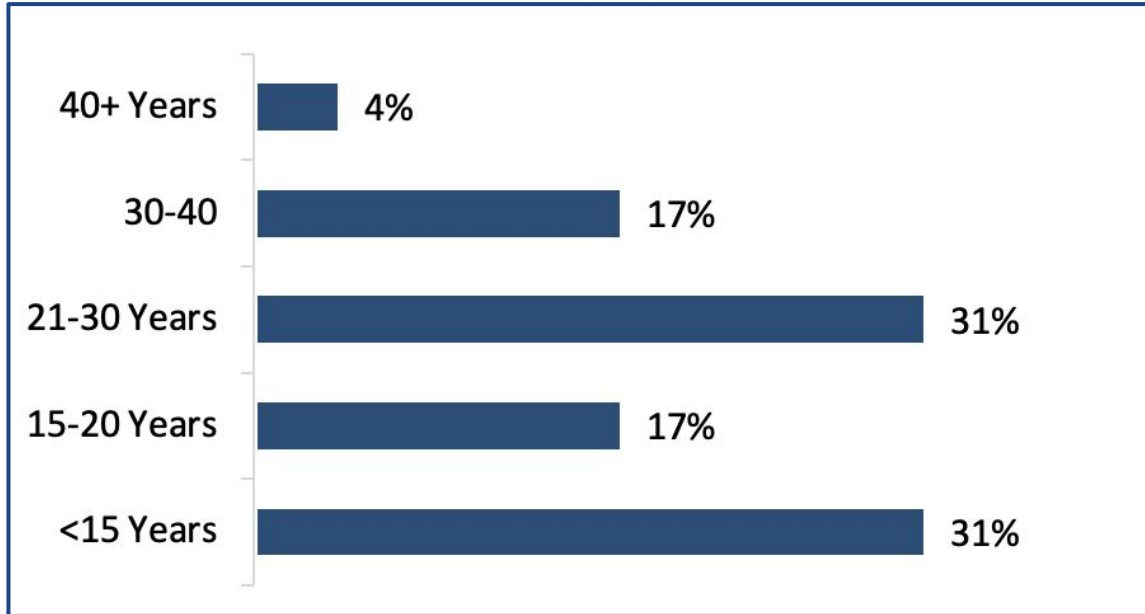
# Survivor Demographics

- Mean age at time of hearing = 53
- Mean age at time of commitment offense = 28
- Average time served = 20 years
- Race
  - 30.8% White
  - 25.3% Black
  - 35.7% Hispanic
  - 4% American Indian or Alaska Native
- Significant previous trauma



*Prior Traumatic Experiences Reported*

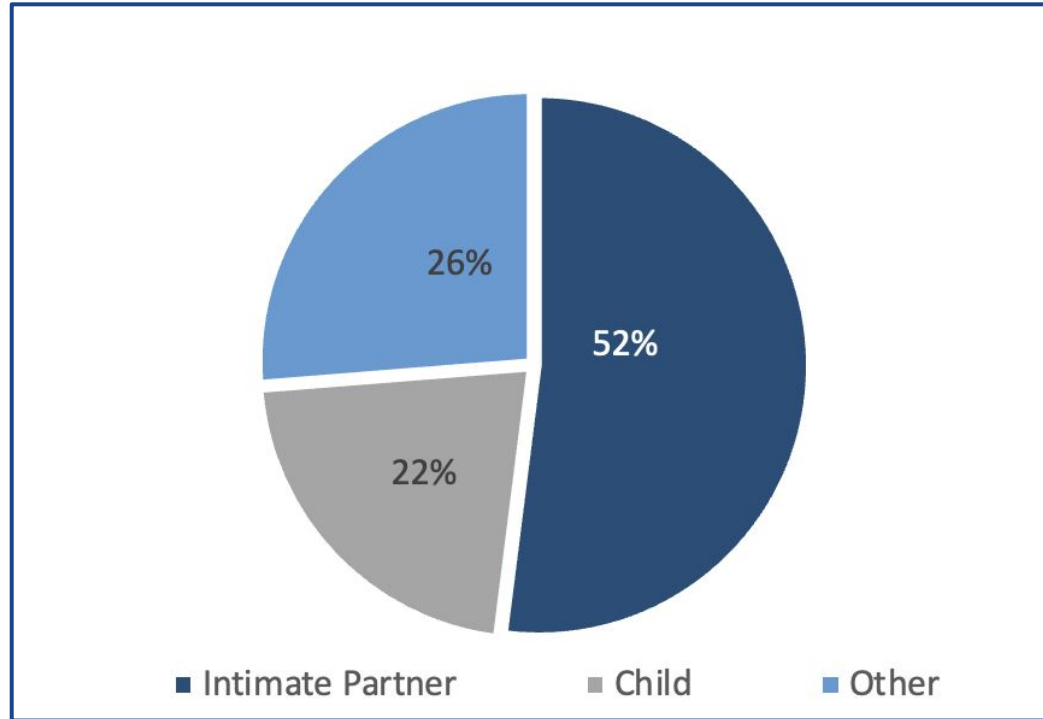
# Survivor Demographics cont'd



*Time Served at the Time of 2021 BPH Hearing*

- 2 survivors with 10 or more appearances before BPH
- Oldest survivor found suitable for parole:
  - *75 years old, 34 years incarcerated*

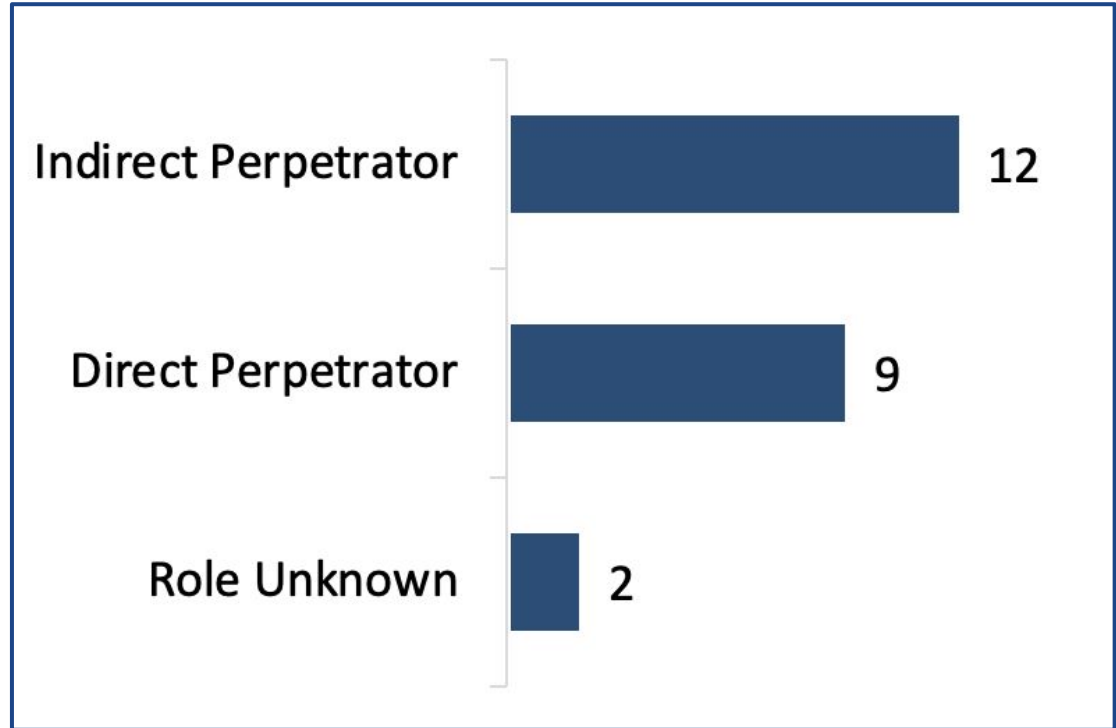
# Victim Demographics



# The Offenses

**Direct** = Survivor herself directly carried out the homicidal act (*i.e., pulled the trigger*)

**Indirect** = Survivor may have played a role in the planning or aiding the homicide, but did not themselves perform the act that killed the victim



# Hearing Outcomes

## 8 Survivors Found Suitable for Parole



53 yrs old  
*Mean*



21 yrs served  
*Mean*



2 Hearings  
*Median*

## 15 Survivors Found Unsuitable for Parole



55 yrs old  
*Mean*



23 yrs served  
*Mean*



2 Hearings  
*Median*

**Sample Grant Rate (2021): 34%**

CIW Grant Rate (2023): 52.17%

CCWF Grant Rate (2023): 51.72%

# Supports for Survivors in the Parole Process

- Compassionate Hearing Interactions
- Discussion of IPV (19 of 23)
- Supportive Programming

# Hearing Observations

- IPV mentioned as a relevant factor in **19 of the 23 hearings**
- The survivor's experience of IPV as an **aggravating** factor in **18 of 23 decisions**
  - In no case was IPV experience considered *exclusively* as a mitigating factor
- In **9 of the 23 hearings**, women either specifically mentioned a brain injury or referenced a form of abuse likely to result in a brain injury

# Findings: How Does IPV Become Aggravating?

- Ambiguity of “Unstable Social History” and the SDMF
- Lack of “Insight”
- Reliance on Myths
  - Abuse as Mutual, Failure to Leave
- Interviewing Findings

# Policy Recommendations & Future Research

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# Policy Recommendations

1. Additional training for BPH commissioners and staff
2. Expand survivor voices in the parole process

# Future Research Needs

- The Role of IPB Investigations in the Parole Process
- Impact of Traumatic Brain Injury on IPV survivors
- The Link between Prior Sexual Abuse and IPV
- Weapons-Related Sentencing Enhancements
- The Survivor's Role in the Criminal Act
- District Attorney Participation at BPH Hearings

# Contact Us

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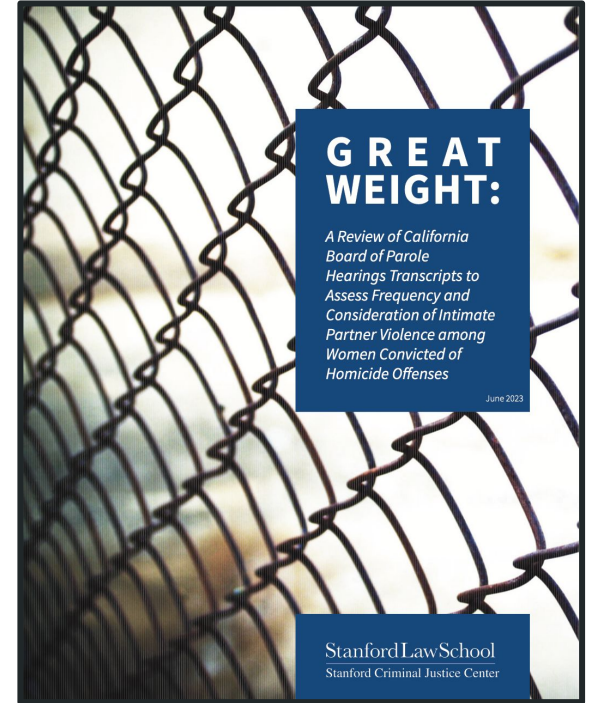
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