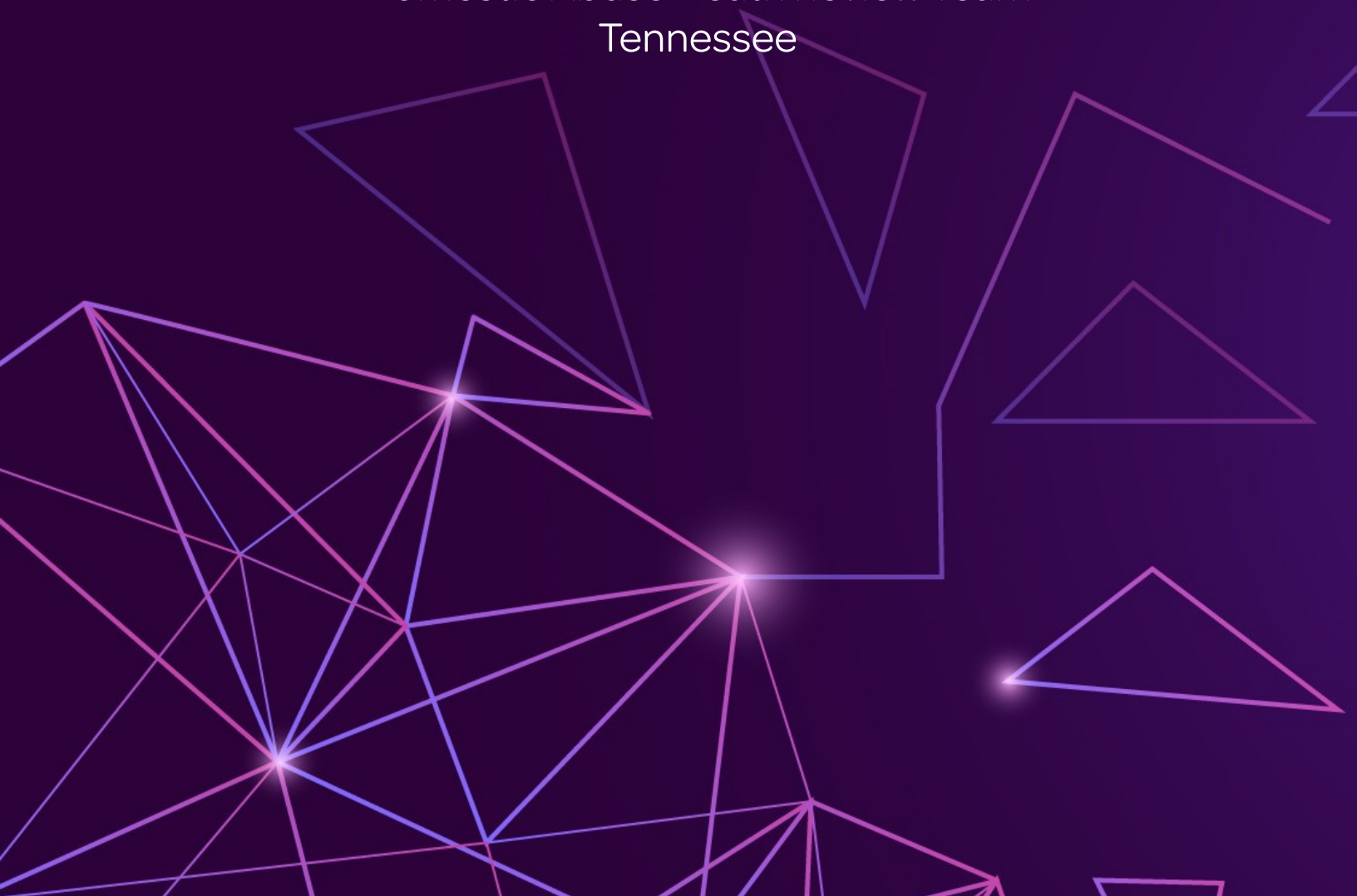


2021
Annual Report

Statewide Fatal and High-Risk Domestic Violence Committee Report

Domestic Abuse Death Review Team
Tennessee





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“When traumatic events are of human design, those who bear witness are caught in the conflict between victim and perpetrator. All the perpetrator asks is that the bystander do nothing. He appeals to the universal desire to see, hear, and speak no evil. The victim, on the contrary, asks the bystander to share the burden of pain. The victim demands action, engagement and remembering.”

– Judith Lewis Herman

This report is dedicated to the victims of domestic violence homicide in Tennessee in 2021 and those who mourn their tragic loss of life. These individuals were family members, neighbors, and friends of our community. We will continue to remember their experiences and learn lessons from their abuse histories that will help others. To those still living in fear, we hope to introduce you to a supportive community dedicated to helping survivors each day.

You are not alone.



Dedication

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COMMITTEE INFORMATION

The Statewide Fatal & High-Risk Domestic Violence Committee was formed in May of 2020 as a branch of the Metro Nashville Office of Family Safety's Statewide Domestic Violence Fatality Review Initiative. The Committee was initially comprised of a small group of Family Justice Center and Domestic Violence Shelter leadership from across Tennessee and expanded in February 2021 to include a group of multi-disciplinary stakeholders representing Tennessee's court and criminal justice systems. The Committee has convened thirteen times since its inception and is currently meeting quarterly.

GOALS AND FOCUS AREAS

The Committee identified five goals and objectives to guide the direction and focus of their future work.

Primary Goals/Focus Areas:

1. The Committee will identify recommendations for policy and legislative changes that improve domestic violence victim safety, increase offender accountability, and promote the prevention of domestic violence homicides on a statewide level.
2. The Committee will address outstanding needs across our state that create barriers for survivors.
3. The Committee will identify emerging issues and patterns affecting survivor safety, share solutions and strategies for addressing those issues, and use our collective resources to find innovative solutions.

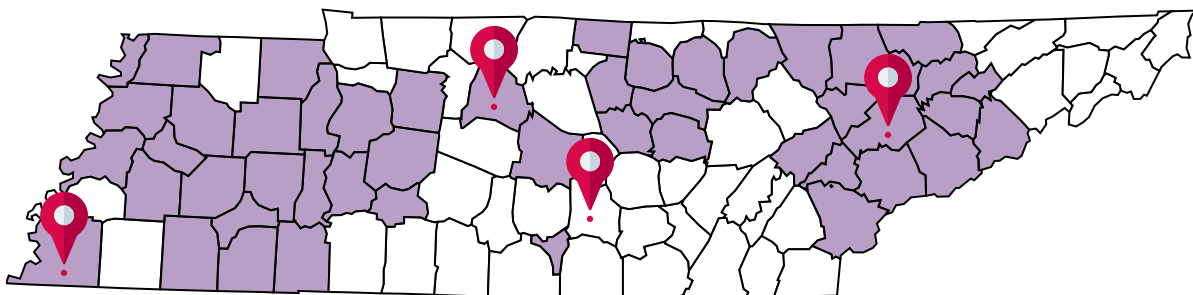
Secondary Goals/Focus Areas:

4. The Committee will form a consensus around training needs for new and experienced advocates. The Committee will share training resources and other tools to ensure advocates across the state have the same foundational knowledge of best practices and domestic violence homicide risk identification and prevention.
5. The Committee will create a State Domestic Violence Fatality Review Process modeled after the Tennessee Child Fatality Board, with appointed members that will be able to present our findings and concerns to state leadership.

Team Membership and Coverage Map

Committee Members	Member Organization
Daryl Chansuthus, Executive Director	Wo/Men's Resource & Rape Assistance Program (WRAP)
Brianna Allen, Domestic Violence Court Coordinator	Scott County Domestic Violence Court
Myra Beasley, Assistant Director	Domestic Violence & Sexual Assault Center
Becky Bullard, Senior Director of Programs	Metro Nashville Office of Family Safety
Jasmine Dowell, Site Coordinator	1 Safe Place Family Justice Center
Shonda Duncan, Executive Director	Scott County Shelter Society
Kathryn Ellis, Executive Director	Knoxville Family Justice Center
Christine Evans-Longmire, Executive Director	Iva's Place
Christy Harness, Executive Director	Scott County Family Justice Center
Heather Herrmann, Statewide Domestic Violence Fatality Review Coordinator	Metro Nashville Office of Family Safety
Dr. David Kitts, Program Coordinator	Special Crimes Unit, Knoxville Police Department
Samuel Lee, Chief Deputy District Attorney General	Knox County District Attorney General's Office
Kevin Marlow, Domestic Violence Officer	Scott County Sheriff's Office
Jennifer McCraw, Director	Safe Hope Center
Catherine Oaks, Director of Victim Services	Helen Ross McNabb Center
Ashton Rector, DV Victim Witness Coordinator	8th Judicial District Attorney General's Office
Amy Sawyer, Executive Director	Women Are Safe Inc.
Amy Stockwell, Executive Director	Upper Cumberland Family Justice Center
Janette Taylor, Assistant District Attorney General, DV Prosecutor	8th Judicial District Attorney General's Office
Nora Tiller, Chief Operating Officer	Community Health of East Tennessee, Family Services Center
Bobbie Womack, Director	Claiborne County Family Justice Center

The Members of the Statewide Fatal & High-Risk Domestic Violence Committee represent or serve 51 counties across Tennessee. There are currently four active and ongoing Fatality Review Teams in Tennessee.



Anderson, Benton, Blount, Campbell, Carroll, Chester, Claiborne, Cocke, Crockett, Davidson, Decatur, DeKalb, Dickson, Dyer, Fentress, Gibson, Grainger, Hamblen, Hardeman, Hardin, Haywood, Henderson, Henry, Hickman, Humphreys, Jackson, Jefferson, Knox, Lake, Lauderdale, Lewis, Loudon, Macon, Madison, McNairy, Monroe, Moore, Obion, Overton, Perry, Putnam, Roane, Rutherford, Scott, Sevier, Shelby, Smith, Union, and White.

Findings and Recommendations

In keeping with the Committee's three primary areas of focus, the Committee has dedicated a significant portion of its work over the past year to identifying prevailing systemic barriers that adversely impact survivor safety on a statewide level. The Committee has identified the four following findings as well as recommendations for policy and legislation changes that could improve domestic violence victim safety, increase offender accountability, and promote the prevention of domestic violence homicides on a statewide level.

- Adhering to Firearm Dispossession State & Federal Laws
- Consistency in Order of Protection Enforcement
- Statewide Strangulation Response & Training
- Domestic Violence Data Collection

Finding One: Firearm Dispossession

In Tennessee, persons convicted of any "felony involving the use or attempted use of force, violence, or a deadly weapon," or felony drug offenses are prohibited from possessing any firearm per Tenn. Code Ann. § 39-17-1307(b)(1). Firearms possession by a person convicted of a felony is also prohibited under federal law. Additionally, Tennessee law prohibits the possession of a firearm while subject to an order of protection which fully complies with 18 U.S.C. § 922(g)(8), the federal law prohibiting firearm possession by a person subject to a domestic violence protective order.

More than half of domestic violence murders in Tennessee are committed with firearms. Firearms were also used as a weapon in more than 2,500 domestic violence incidents in Tennessee in 2019 alone according to the Tennessee Bureau of Investigation's annual Domestic Violence Report [1].



Despite the aforementioned laws, the Statewide Fatal & High-Risk Domestic Violence Committee has identified a trend of lax and inconsistent implementation of firearm dispossession laws across the state. Tennessee is the only state in the country that allows for third-party firearm dispossession without requiring any evidence that the firearm was indeed dispossessed. In Davidson County alone, 43% of domestic violence homicide perpetrators who killed their victims with a gun between 2018 and 2020 were prohibited under the law from possessing a firearm at the time of the murder .

In addition to the increased risk firearms pose for victims, domestic violence calls are among the most dangerous crimes for police to respond to. A report from the U.S. Department of Justice and the National Law Enforcement Officers Memorial Fund examined officer deaths in the line of duty from 2010 through 2014 and found that domestic dispute calls led to more fatalities than any other kind of call. In all but one of the cases, the responding officers were killed with a firearm [2]. Tennessee's law enforcement professionals are not exempt from these dangers; a sheriff's deputy in Hardin County was shot and killed in April 2021 while responding to a domestic violence incident. When firearm dispossession is not fully implemented and enforced per Tennessee law, it leaves Tennessee's police officers vulnerable.

Finding One: Firearm Dispossession

RECOMMENDATION: Tennessee's courts, prosecutors, probation and parole, and law enforcement agencies must fully follow and enforce the current laws on firearms dispossession. Legislation to close safety gaps in the current law is needed.

Tennessee Courts:

- Recommendation to follow existing law: Ensure all respondents/defendants are asked under oath if they possess firearms and instructed to sign a firearms affidavit of dispossession or to dispossess within 48 hours.
- Recommendation to follow existing law: Upon conviction or granting of an Order of Protection, courts must inform all defendants/respondents that they are no longer allowed to possess a firearm and question them under oath about whether they own or possess a firearm.
- Recommendation to help courts ensure the law is followed: Courts should include victims in this process where appropriate to provide their knowledge of the perpetrator's firearm possession and access.
- Recommendation to help courts ensure the law is followed: Require respondents/defendants to attend compliance hearings and present proof of firearm dispossession, including proof of dispossession to a qualified third party.
- Recommendation on offender accountability: When offenders are subsequently found in possession of a firearm, those offenders are to be charged with violation of a court order, unlawful possession, and, when appropriate, perjury.

Tennessee Prosecutors:

- Present firearms indicators to the court when respondents/defendants claim no firearms during court proceedings, such as evidence from witness testimony, Order of Protection Narratives, Lethality Assessment Protocol Forms, Law Enforcement Reports, etc.
- Consider implementation of Metro Nashville Office of Family Safety's model Firearms & Strangulation Flagging Project [3] that flags cases daily for evidence of firearms from the above sources.
- Work with police to take out search warrants when evidence indicates firearms were not dispossessed.
- File motions to revoke bond and charge respondents/defendants with violations of court orders when affidavits of dispossession are not submitted.

Finding One: Firearm Dispossession

Tennessee Probation & Parole:

- Treat all firearms abusers as extremely high risk to victims, probation and parole officers, and law enforcement and increase supervision meetings and requirements.
- When evidence exists that firearms have not been dispossessed, consider searching the defendant's residence with police, model after current policies of State probation and parole.

Tennessee Law Enforcement:

- In accordance with TCA § 36-3-620(a)2, ask every intimate partner violence victim if they would consent to a search of the home for any firearms the defendant may have in order to remove the firearm.
- Work with prosecutors to take out search warrants when evidence indicates firearms were not dispossessed.
- For high risk and/or repeat offenders, implement a two-week in-person or by letter follow-up with the offender after disposition or granting of the Order of Protection. This home visit or letter is a reminder of firearm dispossession laws and the penalty for violating them. Note that depending upon the jurisdiction's capacity and needs, this letter may come from an approved non-law enforcement agency.

Policy & Legislation:

- The option for perpetrators to dispossess their firearm to a third party (e.g., family member or friend) poses the risk that the firearm will be returned to the perpetrator and should be eliminated.
- If the third-party option for dispossession cannot be eliminated legislatively, Courts should require the third party to swear under oath, either in person or via affidavit, that they receive the firearm. This would ensure that the third party is aware of the legal consequences of returning that firearm.
- A clear process for dispossession to a certified firearms dealer needs to be created.
- A clear process for dispossession to law enforcement and procedures for storage, disposal, or return needs to be created.

Finding Two: Consistency in Order of Protection Enforcement

According to Tenn. Code Ann. § 36-3-602, in Tennessee “any domestic abuse victim, stalking victim or sexual assault victim who has been subjected to, threatened with, or placed in fear of, domestic abuse, stalking, or sexual assault, may seek relief” via an Order of Protection . According to a study by the National Institute of Justice, when victims of domestic violence receive Orders of Protection “the levels of violence and abuse declined significantly compared with the six months before the protective order was issued [4].”

However, the same study reported that rural women had more barriers to both getting an order or protection and to having their order appropriately enforced. Overall, victims who struggled with the enforcement of their order of protection after it was granted may be in more danger than those whose Orders are stringently enforced. One study found that protective orders are violated in 67 percent of rape cases, 50 percent of physical assault cases, and 69 percent of stalking cases [5]. However, abusers who are arrested for violating Orders of Protection are 30 percent less likely than abusers who are not arrested to assault their partners again [6].

Despite the aforementioned law, the Statewide Fatal & High-Risk Domestic Violence Committee has identified a dangerous trend of irregular implementation and enforcement of Orders of Protection in Tennessee. The Committee has noted that a domestic violence victim’s access to an Order of Protection is inconsistent, varying widely across Tennessee jurisdictions, and that enforcement of these Orders by both courts and law enforcement agencies is equally variable.

Tenn. Code Ann. § 36-3-605(b) states that “within fifteen (15) days of service of such Order on the respondent..., a hearing shall be held at which time the court shall either dissolve any ex parte order that has been issued, or shall... extend the order of protection for a definite period of time.” In many counties, the Order of Protection, a civil instrument, is paired with any related criminal case. The result of this pairing is that ex parte Orders of Protection are not heard and decided by the court within the required 15-day period. This Committee found that in some jurisdictions, Orders of Protection with related criminal cases can have their hearings delayed for months at a time to coincide with the criminal court system’s processes. This delay beyond what is allowed under Tennessee law puts victims at further risk.

Finding Two: Consistency in Order of Protection Enforcement

RECOMMENDATION: Tennessee's courts, prosecutors, and law enforcement agencies must fully follow and enforce the current laws on Orders of Protection.

Tennessee Courts:

- Encourage use of Orders of Protections and fully enforce these Orders when violations are reported to the courts.
- Identify regional barriers to service, access, and enforcement of Orders of Protection in the court's jurisdiction.
- Find ways to increase access to Orders of Protection using digital solutions.
- Ensure all court personnel responsible for assisting with Orders of Protection are trained on dynamics of abuse, how to assist victims in a trauma-informed manner, and the vital nature of Orders of Protection in helping to keep victims safe.
- Orders of Protection are civil and should not be paired with associated criminal cases in the court system.
- Orders of Protection are extremely time-sensitive tools for victim safety. Pairing hearings for Orders of Protection with criminal cases, which can take months or even years to move through the system, delays the implementation of these Orders indefinitely and puts victims in danger. This practice effectively dilutes the purpose of these Orders.
- As a civil instrument, Orders of Protection are meant to be an option for a victim who may not want to involve the criminal justice system. When Orders of Protection and criminal charges are combined, this can lead victims to believe that they must cooperate with or seek a criminal charge if they want an Order of Protection.
- Finally, respondents are not required to dispossess themselves of firearms under Ex Parte Orders of Protection, so keeping an Order in Ex Parte status means respondents who have guns can legally keep them for much longer than they would otherwise.

Finding Two: Consistency in Order of Protection Enforcement

Tennessee Law Enforcement:

- Enforce all Order of Protection violations with the immediate arrest of the perpetrator according to Tenn. Code Ann. § 36-3-611, which states that “any law enforcement officer shall arrest the respondent without a warrant if...the officer has verified whether an order of protection is in effect against the respondent.”
- Enforce all Ex Parte Order of Protection Violations in which “the respondent has been served with the order of protection or otherwise has acquired actual knowledge of such order [7]” with equal stringency to a final Order
- Police protocol should instruct officers responding to a violation of an unserved Ex Parte Order of Protection to make concerted efforts to have the Ex Parte Order of Protection served.
- Law enforcement officers across the state should receive trainings reminding them of mandated arrest responsibilities for violations of an Ex Parte or full Order of Protection and the importance of such arrests to victim safety.
- It is best practice to offer COPS - Counseling, Order of Protection, Prosecution, and Shelter - when responding to a domestic violence situation.

Finding Three: Strangulation Training & Response

The Statewide Fatal & High-Risk Domestic Violence Committee recognizes that strangulation or asphyxiation is one of the most lethal forms of physical violence and is a very common tool of domestic abusers. Standardizing a state-wide response to strangulation incidents and improving Tennessee's understanding of the inherent danger of strangulation is a vital part of keeping victims safe. If a victim has been strangled by their abuser, their risk of being killed increases tenfold [9]. "Today, we know unequivocally that strangulation is one of the most lethal forms of domestic violence: unconsciousness may occur within seconds and death within minutes. Victims may have no visible injuries whatsoever, yet because of underlying brain damage due to the lack of oxygen during the strangulation assault, they may have serious internal injuries or die days, even weeks later [10]." Asphyxiation was used in at least 600 domestic violence incidents in Tennessee in 2019 alone according to the Tennessee Bureau of Investigation's annual Domestic Violence Report [11].

RECOMMENDATION: Tennessee's courts, prosecutors, and law enforcement agencies must consistently treat the use of strangulation in domestic violence cases as a felony offense according to TCA § 39-13-102.

RECOMMENDATION: Tennessee's jurisdictions should create and implement Strangulation Response Protocols whenever possible. Tools such as law enforcement Strangulation Pocket Cards, brochures, videos, and other information are available for any interested jurisdiction upon request from the Metro Nashville Office of Family Safety (OFS) [12].

Tennessee Prosecutors:

- All prosecutors at the General Sessions and Trial Court level receive two-hour credentialed strangulation training that includes lethality risk, charging decisions, evidence collection and presentation and best practices including strangulation flagging and screening.
- Consider implementation of OFS' model Firearms & Strangulation Flagging Project [3] that flags cases daily for evidence of strangulation based on criminal history, order of protection history, and answers to the Lethality Assessment Protocol.

Finding Three: Strangulation Training & Response

Tennessee Law Enforcement:

- Screen all victims of abuse for signs and symptoms of strangulation, document any signs or symptoms of strangulation in the Incident Report and consider amending domestic violence Incident Reports to include a strangulation section.
- Train police on the signs, symptoms, and lethality of strangulation, including the common lack of physical injuries.
- Ensure that all victims who report or show any signs or symptoms of strangulation receive medical attention.
- Charge offenders who have committed strangulation or asphyxiation with Aggravated Assault Strangulation per TCA §39-13-102.



1,167

There were 1,167 Incidents of Domestic Violence Related Asphyxiation Investigated by TN Police in 2021, according to the TBI.

4,244

4,244 Victims in Nashville Alone Indicated when Answering the Lethality Assessment Protocol (LAP) that they had been Strangled in a Domestic Violence Incident in 2021.

Tennessee Hospitals:

- When hospitals receive a domestic violence disclosure from a patient, medical professionals should privately ask questions pertaining to strangulation.
- *If the patient is currently or has previously experienced DV and strangulation:*
- Hospitals should consider ordering a CTA exam of the patient.
- Hospitals should request permission from the patient to share the result of the CTA exam with police and the District Attorney's Office for prosecution.
- EMS and other emergency medical personnel should receive training in strangulation assessment and response.

Finding Three: Strangulation Training & Response

Tennessee Domestic Violence Victim Service Providers:

- DV Victim Service Providers will screen all clients routinely for a history of strangulation in their relationship and help victims who have experienced strangulation seek medical attention as needed , as well as provide clients with information on the lethality of strangulation.
- Victim Service Providers will receive training on best practices in screening clients for a history of strangulation.



54%

of Nashville clients who answered the Danger Assessment in 2021 indicated that they had been strangled



55%

of them had been strangled to unconsciousness

Finding Four: Domestic Violence Data Collection

According to the United Nations Division for the Advancement of Women, the lack of data on the nature, prevalence, and incidence of the various types of intimate partner violence is regularly highlighted as a major concern and barrier to effective policymaking [13]. The Statewide Fatal & High-Risk Domestic Violence Committee has noted that the collection of data and statistics on intimate partner violence has not been standardized across Tennessee's jurisdictions. This has led to inconsistent and incomplete data collection and reporting. Statewide reports on domestic violence in Tennessee, such as the annual TBI Domestic Violence and Crime in Tennessee reports are often missing data from more rural communities entirely. The data that is collected and shared is often limited in scope and missing key demographic and location data.

Incomplete and limited data poses challenges in several key areas:

- Prevents full and robust study, research, and comparison seeking to pinpoint areas of need and opportunities for growth.
- Limits the usefulness of data when proposing effective law and policy changes to enhance victim safety and offender accountability.
- Limits the usefulness of data when pursuing grant funding to expand or enhance services in areas of need.

RECOMMENDATION: Uniform data collection standards should be put in place to guide the collection of domestic violence data by Tennessee's law enforcement agencies, including improving the ability to capture all domestic violence crime data, an expansion of the types of demographic and incident data collected, standardization of data entry and storage methods, and expansion of how that data is shared with the public.

Conclusion and Call to Action

The findings and recommendations outlined in this report highlight areas for continued growth and improvement in Tennessee's response to domestic violence. The Statewide Fatal & High-Risk Domestic Violence Committee is committed to its continued work of securing safety and empowerment for all victims of intimate partner violence in Tennessee by improving the response to these victims in every measure. The Committee will continue to work together to highlight recommendations that we hope will provide solutions to any gaps that we identify and will ultimately increase victim safety and offender accountability. The Committee will work diligently to amplify the impact of the wonderful work of our member and partner agencies throughout the state and to seek out innovative best practices that will elevate Tennessee's response to domestic violence.

Appendix

Report References:

- [1] <https://www.tn.gov/content/dam/tn/tbi/documents/2019DomesticViolenceTBI.pdf>
- [2] Breul & Keith, Deadly Calls and Fatal Encounters: Analysis of U. S. law enforcement line of duty deaths when officers responded to dispatched calls for service and conducted enforcement, US Department of Justice, 2015
- [3] Contact OFSHighRiskTeams@jis.nashville.org for more information on this project.
- [4] Perspectives on Civil Protective Orders in Domestic Violence Cases: The Rural and Urban Divide, NIJ Journal Issue 266
- [5] Patricia Tjaden & Nancy Thoennes, Nat'l Inst. of Justice, Extent, Nature, and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey, NCJ 181867 52 (July 2000), <http://www.ncjrs.gov/pdffiles1/nij/181867.pdf>
- [6] Christopher Maxwell et al., Nat'l Inst. for Justice, NCJ 188199, The Effect of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program 9 (July 2001), <http://www.ncjrs.gov/pdffiles1/nij/188199.pdf>
- [7] Tenn. Code Ann. § 36-3-611
- [8] Tenn. Code Ann. § 36-3-619
- [9] National Institute for Justice, Assessing Risk Factors for Intimate Partner Homicide, Campbell et al., <https://www.ojp.gov/pdffiles1/jr000250e.pdf>
- [10] Alliance for Hope Training Institute on Strangulation Prevention: <https://www.strangulationtraininginstitute.com/impact-of-strangulation-crimes/>
- [11] <https://www.tn.gov/content/dam/tn/tbi/documents/2019DomesticViolenceTBI.pdf>
- [12] Contact OFSHighRiskTeams@jis.nashville.org for more information on strangulation resources.
- [13] <https://www.un.org/womenwatch/daw/egm/vaw-stat-2005/docs/final-report-vaw-stats.pdf>

If you have any questions about the report, please contact Heather Herrmann (HeatherAHerrmann@jnsnashville.gov), Assistant Director of Education & Strategic Initiatives or Clare Ryan (ClareKRyan@jnsnashville.gov) Statewide Domestic Violence Fatality Review Coordinator at the Metropolitan Government of Nashville-Davidson County Office of Family Safety.

