

LIVING WITH IMPUNITY

UNSOLVED MURDERS IN OAKLAND
AND THE HUMAN RIGHTS IMPACT
ON VICTIMS' FAMILY MEMBERS



International Human Rights Law Clinic
University of California, Berkeley, School of Law

LIVING WITH IMPUNITY

UNSOLVED MURDERS IN OAKLAND
AND THE HUMAN RIGHTS IMPACT
ON VICTIMS' FAMILY MEMBERS

January 2020

Roxanna Altholz



The cover photo is of a mural in West Oakland that depicts Antonio Ramos, a young local artist killed during the making of the mural.

INTERNATIONAL HUMAN RIGHTS LAW CLINIC UNIVERSITY OF CALIFORNIA, BERKELEY, SCHOOL OF LAW

The International Human Rights Law Clinic (IHRLC) designs and implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through advocacy, research, and policy development. The IHRLC employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues. The IHRLC develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of the IHRLC's work and acquire unparalleled experience generating knowledge and employing strategies to address the most urgent human rights issues of our day. For more information, please visit www.humanrightsclinic.org.

BerkeleyLaw
UNIVERSITY OF CALIFORNIA

International Human
Rights Law Clinic

CONTENTS

Executive Summary	/ 1
Introduction	/ 6
GETTING AWAY WITH MURDER IN OAKLAND	/ 9
THE EFFECTS OF HOMICIDE ON THE VICTIMS' FAMILY MEMBERS	/ 11
VICTIM SERVICES IN OAKLAND	/ 12
Study Methods	/ 17
The Investigation from the Family Member's Perspective	/ 19
LACK OF OFFICIAL DEATH NOTIFICATION	/ 20
CRIME SCENE INVESTIGATION	/ 20
FOLLOW-UP INVESTIGATION	/ 21
SEARCH FOR TRUTH	/ 24
Obstacles and Barriers to Victims' Rights and Services	/ 25
KNOWLEDGE OF RIGHTS	/ 25
FINDING ASSISTANCE IN THE FOG OF GRIEF	/ 26
THE LIMITS TO ELIGIBILITY	/ 27
AVAILABILITY OF ACCESSIBLE AND APPROPRIATE SERVICES	/ 28
The Effects of Impunity	/ 30
DISENFRANCHISED GRIEF	/ 30
PERCEIVED POLICE BIAS	/ 33
LOSS OF SECURITY	/ 34
LOSS OF A LIFE PLAN	/ 36
Justice from the Family Member's Perspective	/ 38
CRIMINAL JUSTICE	/ 38
PRIVATE JUSTICE	/ 40
VICTIM-CENTERED JUSTICE	/ 40
Conclusions and Recommendations	/ 42
Notes	/ 49
Author and Acknowledgments	/ 58

EXECUTIVE SUMMARY

This report presents the findings of a study of the family members of unsolved murder victims in Oakland. Since the 1990s, Oakland has been one of the most violent cities in the country. In 2006, when its wave of violence crested, there were more homicides per capita in Oakland than in the much larger cities of San Francisco and Los Angeles. In the last decade, approximately 76% of the city's homicide victims were black. During that time period, police made arrests in approximately 40% of Oakland homicides involving black victims and approximately 80% of homicides involving white victims. As a result of high rates of violence yet low arrest rates, the Oakland Police Department (OPD) has over 2,000 cold homicide cases on its books.

The goal of this report is to contribute to a deeper understanding of the lived experiences of the family members of unsolved murder victims. Every homicide takes an enormous toll on the victim's family members. In unsolved murder cases, family members not only contend with the anguish of the loss, but also the ongoing uncertainty of the police investigation and the fear of a perpetrator who has not been held accountable. In cities like Oakland that have stark racial disparities in arrest rates for homicides, the systemic failure to solve murders sends a message about the value of the victims to society.

The report uses the concept of impunity, which has been codified in international human rights law, to move beyond the question of why a murder has not been solved to focus on how family members experience the unsolved murder. For family members, living with impunity in Oakland has meant experiencing lackluster police responsiveness and often disrespectful and discriminatory treatment, checkered availability of crime victim services and restrictions on who can take advantage of them, and stigma and safety concerns that not only often go unaddressed but are exacerbated by the criminal justice system's cramped approach to justice.

The United States has an international legal obligation to combat impunity which flows from several international sources that this nation has agreed to obey, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the American Declaration of the Rights and Duties of Man. The systemic failure to prevent violence, investigate, and provide support and assistance to family members without discrimination in Oakland is arguably a violation of international human rights law.

Using semi-structured questionnaires, researchers with the International Human Rights Law Clinic conducted in-depth interviews with 15 family members of 16 separate murders that occurred in Oakland and with 38 key informants about the impacts of the homicides, the priorities and needs of family members, and their attitudes and opinions about law enforcement and victim service providers. In this study, 87% of the family respondents were African American, 13% identified as mixed race or Latino, and 73% were female.

All of the interviews with family members, and the majority of those with key informants, were transcribed and then coded. The codes covered a range of topics, including the emotional, financial, and social consequences of the homicide; the priorities and needs of family members; coping strategies they had developed; views about the murder investigation's efficacy; contact with police investigators; attitudes and perspectives on traditional, private, and restorative justice; and experiences with victim service providers.

In addition to interviews with homicide survivors and key informants, researchers compiled public records related to crime victims from Alameda County's Victim Compensation Program and the lead

community-based organizations for victim services in Oakland. The records contained information about the types of services or benefits available to crime victims, eligibility requirements and grounds for denial of services, and the demographic information on beneficiaries. The findings presented are limited to our interview sample, which was not random.

Conclusions

The voices of victims and survivors of crime, especially black crime victims, are often missing from the public safety and justice debate. This report foregrounds the family members' perspectives and insights with the aim of identifying policies that more effectively address the needs and experiences of the family members of homicide victims. With this in mind, we offer the following conclusions regarding how law enforcement discharges its duty to investigate, how family members interpret and experience law enforcement's failure to solve the murder, what assistance and support is available to family members, and how family members understand justice in the context of a decades-long murder epidemic.

Mistrust and the Investigation. More than 40% of Oakland's general budget—a higher percentage than in many other cities—goes to the police department. Nevertheless, Oakland chronically understaffs its homicide section. Many attribute Oakland's low arrest rates in cases involving African American victims, however, to the community's reluctance to cooperate with police investigations out of fear of reprisal or distrust of the investigators. This report identifies specific law enforcement behaviors and laws that undermine the rule of law and foster mistrust in law enforcement.

Our research indicates that law enforcement's treatment of family members at critical moments—during death notification, at the crime scene, and during the subsequent investigation—often generated mistrust, frustration, and stigma. The vast majority

of family members did not receive official notification about the death of their loved ones and had limited or no contact with the homicide investigators for extended periods during the investigation. Several family members and community-based service providers described intimidation and fear of reprisal as a significant problem in Oakland and noted the connection between the reluctance of witnesses to come forward and the unwillingness or inability of law enforcement to provide protection.

Family members expressed a lack of confidence in the thoroughness of police investigations and questioned investigators' commitment to solving the crimes. Despite their frustration, family members articulated an intense interest in supporting the investigation and were cognizant of the difficulties investigators faced. Many family members had conducted parallel investigations to identify witnesses themselves and provide police with possible leads—efforts sometimes undertaken at their peril.

Discrimination and Victim Status. Federal and California law makes a distinction between innocent victims who are deserving of assistance and culpable victims who are not. Each year, the California Victim Compensation Board (CalVCB), a state program that helps pay expenses that result from violent crimes (including homicide), denies on average 19% of claims filed by family members of Oakland homicide victims.

Victims of crime who law enforcement determines played a role in the murder, who are incarcerated or on probation, or who do not cooperate with police are denied access to government assistance and support. Family members and community-based service providers expressed concern about the considerable authority and discretion police have to deny access to government financial assistance under the current law. One social worker explained that ineligibility criteria, “further perpetuate ... the disenfranchisement [and] the lack of support of services” available to the families of homicide victims judged to be responsible for their own death.

Gaps in Services. Family members interviewed for this report identified several barriers to engaging with victim support services: gatekeeping by law enforcement, knowledge of rights and services, timing of contact by service providers, and availability of appropriate services outside of Oakland, in addition to psychological factors, such as fear of retaliation, shame, and the effects of trauma. Our research found that most family members were unaware of their rights as crime victims. Most had received some form of state support, typically for funeral expenses; however, the support and assistance available did not address the complex, long-term effects of the homicide. Safety concerns even led some family members to move away from their homes or leave their communities. Many families who did relocate, in some cases to outside the city or even outside the state, found themselves without a support system and unable to access needed services. Eligibility requirements exclude some of the family members of homicide victims who could most benefit from government assistance; the determination of claim eligibility lacks transparency and independence from law enforcement, which may further disadvantage the families of Oakland homicide victims; and lastly, appropriate and accessible rehabilitative services are not widely available.

Grieving While Living with Impunity. Numerous studies have examined the ongoing and devastating effects of homicide on a victim's loved ones. African Americans, especially black youth, are at a disproportionate risk for exposure to violence and trauma. Nationwide, homicide is the leading cause of death for African American men ages 10 to 34 and black youth are 7.8 times more likely than whites to experience the homicide of a loved one. On average, African Americans experience the homicide of two loved ones in their lifetime.

Stigma, blame, and lack of justice collide to disenfranchise the grief of Oakland family members.

The majority of family members interviewed for this report had experienced the homicide or shooting of more than one family member. Most family members believed law enforcement's prejudice and bias contributed to the police's failure to solve many of the murders. Many family members said the police treated them like criminals and the victim like a number. The term "public service murders" was used to describe the family members' perception of how the police view the deaths of young, black men in Oakland and why the police did not properly investigate them. Some family members believed that police had the perception that the victim was bad for the community and did not have a value to society.

Family members used different strategies to attempt to overcome or cope with the shame, guilt, stigma, and fear associated with the unsolved murder. They repeatedly called investigators, visited the police station, or created groups to help other families of homicide victims in an effort to ensure that police investigators would not ignore the death of their loved ones.

Justice for Victims and Their Families. Family members emphasized the importance of prosecution and punishment for those responsible for the murder as a measure to prevent future violence. Family members described "private justice" or "street justice" as a source of violence and fear in their lives. Some family members empathized with the perpetrators and their family and used the phrase "hurt people hurt people" to describe the cyclical nature of Oakland's violence.

Most family members ultimately held a holistic view of justice, one that extended beyond the prosecution of perpetrators. From the perspective of many family members, justice should address their needs by providing support and assistance and by honoring the memory of the victims. A family member put it succinctly: when the victims' families "are left behind hurting and abandoned, justice is not served."

Recommendations

Investigation: Service providers (including public health professionals, mental health counselors, and social workers), criminal justice personnel, police, assistant district attorneys, judges, and court officials can have an enormous impact, both positive and negative, on families of homicide victims. The Oakland Police Department (OPD) lacks policies and protocols in several key areas that would help reduce uncertainty and mitigate secondary victimization of family members. To address these challenges, we recommend the following:

First, OPD should partner with community-based victim service providers and the family members of homicide victims to develop an official death notification protocol. Best practices on notifying family members recommend that the notification take place in person, in private, and by an official who can provide complete and accurate information about what is known about the crime and guidance about what to expect from the criminal justice system during the investigative stage.

Second, OPD should review its policies for interacting with family members at the crime scene to balance protecting the safety and integrity of the criminal investigation with a trauma-informed approach for addressing the emotional and practical needs of family members.

Third, OPD should develop a protocol for communication with family members that is trauma-informed, proactive, and anticipates long-term interactions with family members. When possible, OPD should allow the family members of homicide victims access to examine cold-case files. Officials should also take steps to ensure that established procedures are followed.

Obstacles and Barriers To Victims' Rights and Services: Based on our interviews and data, family members receive limited assistance to address income loss and expenses related to burial, mental health

counseling, and relocation. Multiple barriers exist for the most vulnerable family members of homicide victims. To address these issues, we recommend the following:

First, victim services providers should expand access to support and services by conducting long-term and continuous outreach. Contact directly after the homicide may not be helpful for family members who are emotionally overwhelmed and are unable to respond to initial offers of support. Follow-up contact, even years after the homicide, may be necessary to foster trust and engagement with available services.

Second, access to services should be expanded to include individuals who are involved with the criminal justice system. According to research, these individuals are precisely the segment of the population most likely to be victimized and engage in subsequent violence.

Third, access to services should not depend on or be used as leverage to compel family members' cooperation with law enforcement.

Fourth, several family members identified opportunities to talk with other family members of homicide victims about their experiences, such as grieving circles, as a source of support. Government resources should be used to secure funding and expand these informal, grassroots initiatives.

The Effects of Impunity: With a backlog of thousands of unsolved murder cases, Oakland must address the needs of family members living in the shadow of impunity. Many family members reported that their recovery process is further complicated and prolonged by the stigma and blame associated with the death of young, black men in Oakland. Community-based victim service providers recognize these challenges but struggle to meet them with available resources. We recommend the following measures to address these challenges:

EXECUTIVE SUMMARY

First, a thorough needs assessment that captures the priorities, needs, and concerns of this segment of Oakland's community is long overdue. The assessment should be conducted by an independent agency with the requisite time, resources, and skill set. The needs assessment should focus on the communities of East and West Oakland, which have the highest rates of violence and victimization, and it should incorporate the perspectives of community-based service providers and advocates.

Second, city officials, law enforcement, and victims' services providers should work collaboratively to dismantle the notion that only "innocent" victims deserve support. In determining the eligibility of family members of homicide victims for support, victim service providers should err on the side of inclusion.

Third, Oakland should develop adequate and effective programs to help relocate family members of homicide victims who are not witnesses but feel unsafe in their homes. Although family members may apply for financial assistance, the \$2,000 statutory cap

for relocation expenses is insufficient to assist families attempting to resettle in the Bay Area. An effective program would provide resources but also help find housing and address the needs and vulnerabilities specific to individuals living in government-subsided housing.

Lastly, Oakland should develop wraparound services and long-term care to specifically address the complex needs of family members of homicide victims. It is critical that the services be made available through an independent agency, on an ongoing basis, and address the mental health needs of different communities, including the expression of trauma symptoms of African American families.

Victim-Centered Justice: The family members of homicide victims have a multifaceted understanding of justice. While solving the murder and incarcerating the perpetrators is a clear priority for most family members, many believed justice must also include support and assistance for the family members. Addressing the "justice gap" should not only involve more resources for law enforcement; it requires support services and public acknowledgment of the victims of violence in Oakland.

INTRODUCTION

Since the 1990s, Oakland has been one of the most violent cities in the country. In 2006, when its wave of violence crested, there were more homicides per capita in Oakland than in the much larger cities of San Francisco and Los Angeles.¹ From 2014 to 2018 alone, there were 416 homicides and 1,233 nonfatal shootings in Oakland.²

Oakland's murder epidemic has been characterized not only by high rates of violence but stark racial disparities in arrest rates for homicides in the city and a systemic failure to adequately support those most directly impacted by violence: the family members of the victims. In the last decade, approximately 76% of the city's homicide victims were black.³ During that time period, police made arrests in approximately 40% of Oakland homicides involving black victims and approximately 80% of homicides involving white victims.⁴ In East and West Oakland neighborhoods, where most of the city's black families live, police made an arrest in less than a third of murders.⁵ As a result of high rates of violence yet low arrest rates, the Oakland Police Department (OPD) has over 2,000 cold homicide cases on its books.⁶ Other cities with comparably high rates of murder also have large backlogs of unsolved murder cases.⁷

Each of these homicides left a disaster in its wake. The family members of homicide victims typically experience severe and long-term psychological, emotional, physical, and financial consequences that can disrupt their personal relationships, prevent them from pursuing professional or educational goals, and upend their belief systems. In unsolved murder cases, family members not only contend with the anguish of the loss, but also the ongoing uncertainty of the police investigation and the fear of a perpetrator who has not been held accountable.

Oakland law enforcement practices can—and often do—exacerbate the adverse impacts family members experience by disregarding their trauma and grief,

devaluing the loss of life, and failing to share information about the investigation with family members. The OPD does not have protocols for official death notification by police of next of kin, interaction with family members at the crime scene, or communication with family members during the investigation. Many family members reported that police did not return their phone calls or update them about the investigation. One mother interviewed for this report recalled a typical encounter with Oakland detectives at the hospital shortly after learning her son was dead, “Basically, the way [the detective] was asking me questions was more like he was talking to the person that did it, instead of somebody's mother.” For many family members of black homicide victims, the treatment they receive from law enforcement and the racial disparities in arrest rates for homicides are further evidence of a criminal justice system skewed against them, deepening their distrust of law enforcement.

Crime victims' laws also contribute to the frustration and stigma family members experience. Every state in the country has a program to compensate and assist crime victims. Each year, the state of California allocates tens of millions of dollars to help crime victims and their families with funeral expenses and medical bills and to pay for counseling or moving expenses. However, the majority of California crime victims are unaware of the services available to support their recovery or found services difficult to access.⁸ Furthermore, California law authorizes support for crime victims for only a limited time period. Even when the murder remains unsolved and the effects endure for years, family members are eligible for only up to two years of assistance.

Crime victims' laws, including in California, also create categories of “deserving” and “undeserving” crime victims that exclude some family members (including the family members of homicide victims) with the greatest need from government assistance.

INTRODUCTION

Family members who are incarcerated or on probation, parole, or supervised release for a violent felony are not eligible for financial assistance.⁹ Under California law, if the police believe the victims or their family members were “involved in” the victim’s death, they may declare them ineligible for assistance. OPD has exercised that discretion to deny assistance to family members when they suspect the victim or family member of involvement in gang activity or drug dealing, and to pressure family members to cooperate with their investigation. Research indicates that laws barring crime victims (including family members) with criminal records from receiving government-supported victim services disproportionately affect black crime victims.¹⁰

The goal of this report is to contribute to a deeper understanding of the lived experiences of the family members of unsolved murder victims. Nationwide, even as murder rates decline sharply, police are solving fewer murders. From a high of above 90% in the early 1960s, homicide clearance rates have hit the current low of just above 60%. This decline has garnered increasing attention by journalists, academics, and policy makers, but research has focused on factors that contribute to the national trend or influence the likelihood a homicide will be solved. The focus of this report, instead, is the group most directly impacted by this growing national trend: the family members of the victims.

The report uses international human rights law to draw attention to the underexamined impacts of unsolved murder on the family members of the victim. International human rights law has developed the concept of impunity to describe the accumulative effects of systematic failures by a State¹¹ to prevent acts of violence, to satisfy the rights of the victim’s family members to truth, and to remedy the harms suffered as a result of the homicide and the failure to effectively investigate.¹² This report uses the concept of impunity to move beyond the question of why a murder has not been to solved to focus on how family members experience the unsolved murder. For family members, living with impunity in Oakland has meant

experiencing lackluster police responsiveness and often disrespectful and discriminatory treatment, checkered availability of services and restrictions on who can take advantage of them, and stigma and safety concerns that go unaddressed and are often exacerbated by the criminal justice system’s cramped approach to justice.

Most often, the concept of impunity has been used to condemn the State’s unwillingness or inability to bring to justice members of the military or police who torture or kill. However, under certain circumstances, murders carried out by private actors arise to the level of a violation of international human rights law.¹³ International human rights bodies have condemned States for generating impunity for domestic violence against women¹⁴ and violence against racial and ethnic minorities.¹⁵ The systemic failure to prevent violence, investigate, and provide support and assistance to family members without discrimination in Oakland is arguably a violation of international human rights law.

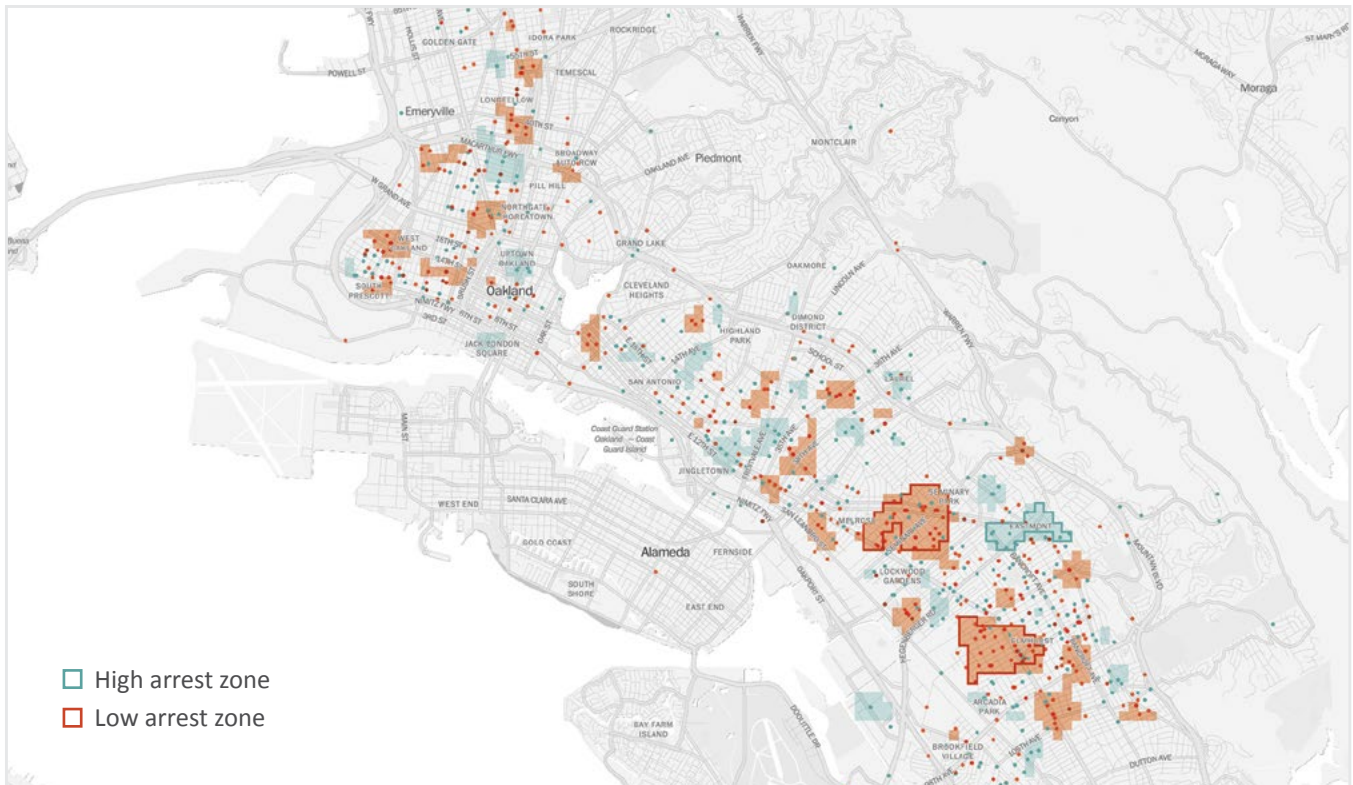
The United States has an international legal obligation to combat impunity which flows from several international sources that this nation has agreed to obey, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the American Declaration of the Rights and Duties of Man.¹⁶ These international instruments impose binding legal obligations on the different state entities at the state, county, and city level.

Oakland has a long history of racial discrimination and racism perpetrated by both private and public action that has deprived residents of color of housing options, employment opportunities, political power, and access to health care, and has subjected these residents to over-policing, police brutality, under-resourced schools, and unhealthy environments (Figure 1). International human rights bodies have linked violence and the failure to effectively pursue perpetrators to discrimination in the United States.

The Inter-American Commission on Human Rights and United Nations committees that examine torture, discrimination, and civil and political rights have criticized the United States for ineffective and inefficient policing and accountability policies that fail to address violence against historically discriminated and marginalized groups, including African

Americans.¹⁷ Under international human rights law, States have the binding legal obligation to identify and eliminate discrimination and ensure equality of opportunity and treatment.¹⁸ The international prohibition of discrimination extends to policies and practices that are deliberately discriminatory in nature, but also to those that have a discriminatory effect.¹⁹

Figure 1: Map of Homicides in Oakland 2008-2017



Source: *The Washington Post*

Oakland is a mid-size city located in the San Francisco Bay Area with an estimated population of 425,204.²⁰ It is one of the most racially diverse cities in the country with significant numbers of white (27%), black (23%), Latino (28%), and Asian (15%) residents.²¹ Historically, housing policies segregated Oakland's African American and Latino residents into the neighborhoods of East and West Oakland. The neighborhoods of East Oakland are located in the central and southern part of the city and stretch from Lake Merritt in the northwest to San Leandro in the southeast, while West Oakland is located west of downtown Oakland in the northwestern corner of the city. These neighborhoods have higher concentrations of poverty, unemployment, chronic absence from schools, and violent crime.²² East and West Oakland residents also have disproportionately high rates of chronic health problems.²³ East and West Oakland neighborhoods are experiencing the early stages of gentrification and displacement and are losing low-income households at an accelerating rate.²⁴ If trends continue, Oakland's African American population, for example, could fall by more than half "from roughly 35 percent of the city's total population [in 2000] to a mere 16 percent [by 2030]."²⁵

Under a human rights framework, the obligations of city, state, and federal authorities to the family members of homicide victims go beyond punishing the guilty for the murder. International human rights law recognizes family members of homicide victims as “victims” themselves with the right to participate in criminal investigations.²⁶ International courts have repeatedly condemned States for causing a victim’s family “suffering and anguish, and a feeling of insecurity, frustration, and helplessness” by failing to conduct effective investigations or respect the family members’ dignity.²⁷

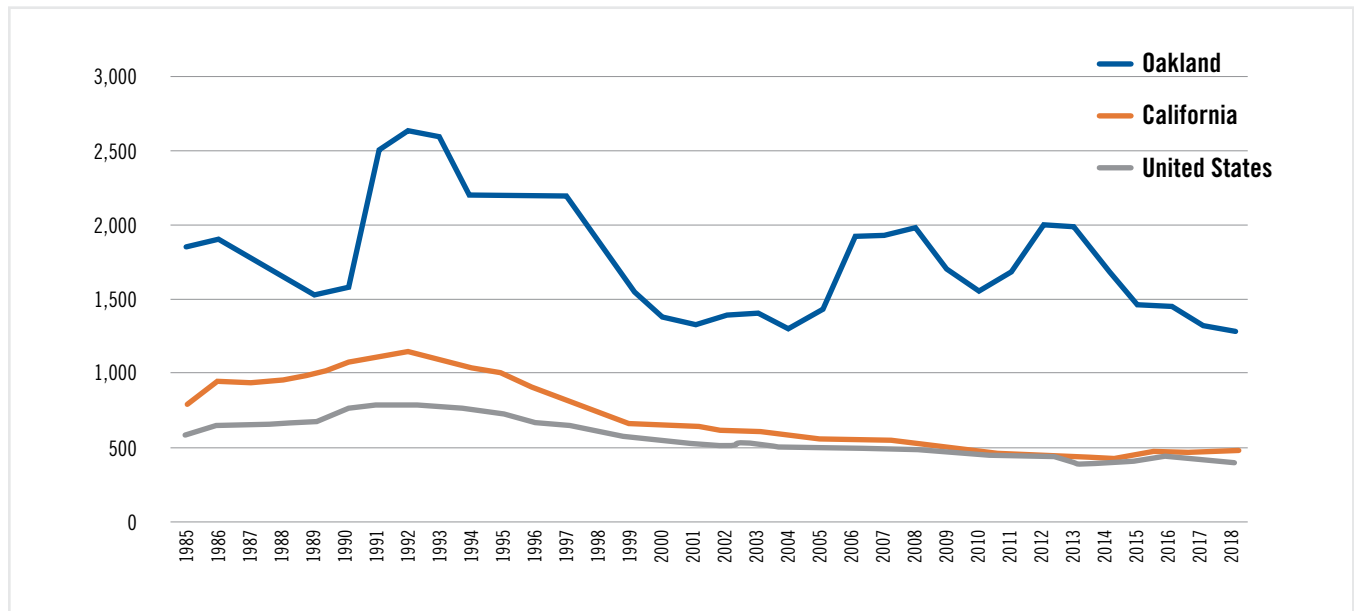
International human rights law also codifies a legal obligation to repair the harms suffered by individuals and communities as a result of serious human rights violations.²⁸ States must compensate victims and their family members, acknowledge the violation of their rights, and end ongoing abuses. International human

rights bodies have also recognized that reparation may require symbolic acts (such as the construction of monuments) and rehabilitation services (such as access to mental health counseling).²⁹

Impunity has taken root in Oakland and its branches extend into the lives of the family members of homicide victims. This report offers a glimpse of the family members’ experiences living with impunity. The human rights framework requires a close examination of how law enforcement discharges its duty to investigate, how family members interpret and experience law enforcement’s failure to solve the murder of their relative, what assistance and support is available to family members, and how family members understand justice in the context of a decades-long murder epidemic. The report ends by outlining the steps city, state, and federal officials should take to address the effects of impunity.

Getting Away with Murder in Oakland

Figure 2: Violent Crime Rate per 100,000 in Oakland, California, and the United States, 1985-2018



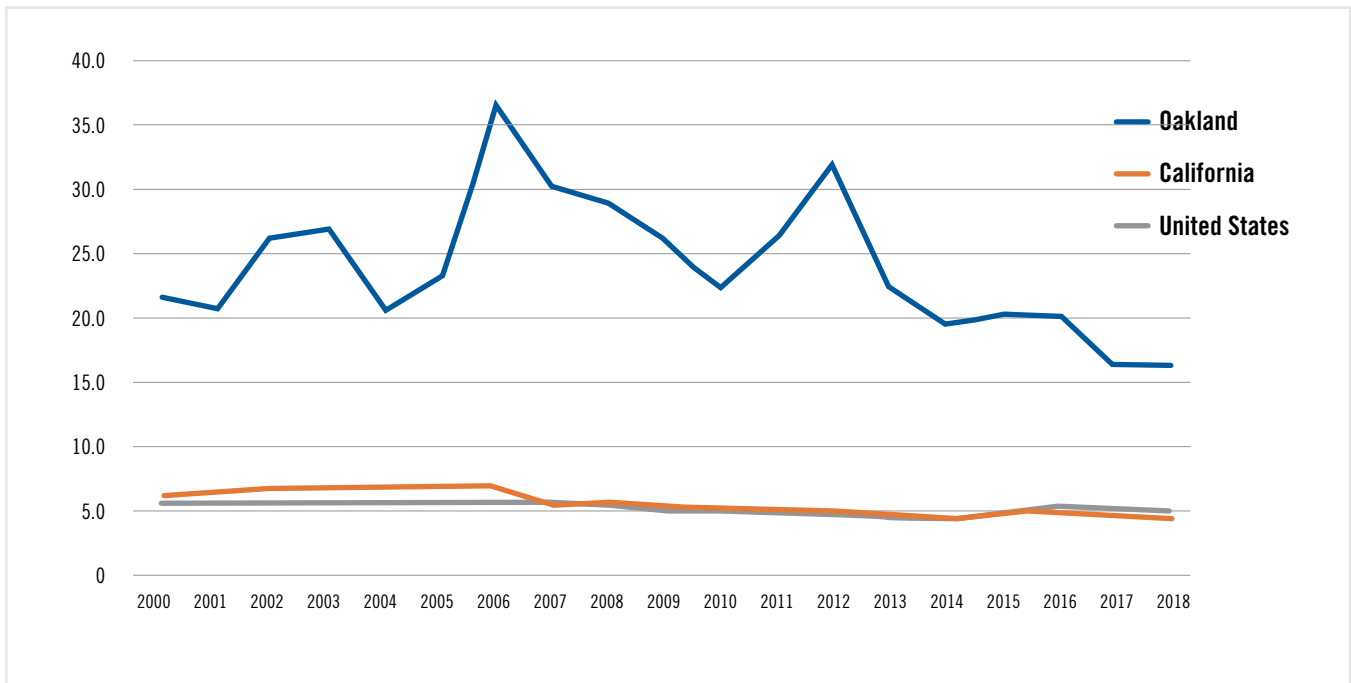
Source: FBI Uniform Crime Reports

Even as the overall rate of violent crime in California and the United States declined in the last few decades, the rate of violent crime in Oakland has remained high (Figure 2). A unique partnership of city leaders, law enforcement, and community-based advocates, known as Ceasefire, has succeeded in cutting shootings and homicides by almost 50% since 2012 by focusing social services and law enforcement activity on a small group of individuals who recently have been the suspect in or a target of a shooting.³⁰ Nevertheless, per capita, Oakland’s homicide rate has been consistently three to six times state and national levels (Figure 3). And within Oakland, of the 416 homicides and 1,233 nonfatal shootings that took place between 2014 and 2018, 60% of these homicides occurred in the neighborhoods of East Oakland and West Oakland.³¹

An analysis of homicides indicates that the vast majority of homicides in Oakland are committed with a firearm (78.4%) by men (85%) between the ages of 15 and 34 (78.6%).³² African Americans, who comprise between 24% and 28% of Oakland’s population, have made up on average 76% of the city’s homicide victims in the last decade³³ and the majority of known suspects.³⁴

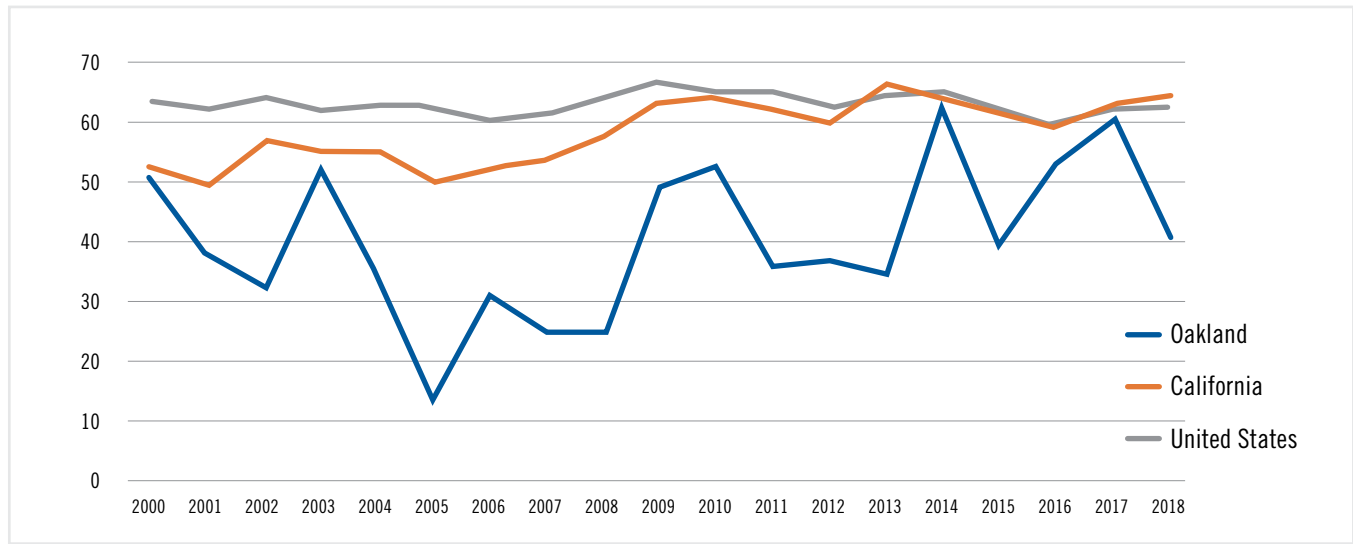
Despite a persistent high rate of murder, historically Oakland has had low “clearance rates,” which is the rate at which police resolve homicides with arrest or other means.³⁵ Arrests are infrequent in Oakland’s neighborhoods with the highest concentration of murders. From 2000 to 2018, Oakland police made arrests in 40% of homicides—which is far below state (58%) and national (63%) levels (Figure 4). In some East and West Oakland neighborhoods, less than one in three homicides resulted in an arrest during the last decade.³⁶ As a result, there is a backlog of approximately 2,000 unsolved murders or cold cases in Oakland.³⁷

Figure 3: Homicide Rate per 100,000 in Oakland, California, and the United States, 2000-2018



Source: FBI Uniform Crime Reports

Figure 4: Homicide Clearance Rate in Oakland, California, and the United States, 2000-2018



Source: FBI Uniform Crime Reports for United States, California Department of Justice for Oakland and California

Nationwide, there is a stark disparity in homicide clearance rates depending on the victim's race. Murders involving black victims are the least likely of any racial group to be solved, although the majority of homicide victims are black. In the past decade, law enforcement made an arrest in 63% of the country's killings involving white victims, and in 47% of murders with black victims.³⁸ Over the same time period in Oakland, police made arrests in approximately 80% of Oakland homicides involving white victims but only in approximately 40% of homicides of black victims.³⁹ Nationwide, a homicide involving a black victim is less likely to lead to an arrest whether the killing took place in a majority-white neighborhood or a majority-black neighborhood, which according to one investigation should "deepen the skepticism that police approach each homicide with the same fervor."⁴⁰

The Effects of Homicide on the Victims' Family Members

The family members of homicide victims experience diverse, intense, and prolonged impacts that affect every dimension of their lives: psychological, emotional, behavioral, physical, financial, occupational, social, and spiritual. Each homicide affects an estimated six to 10 family members in addition to friends,

co-workers, and significant others.⁴¹ Family members commonly experience anxiety, depression, complicated grief, and post-traumatic stress disorder (PTSD).⁴² The majority of the family members of homicide victims—57.4% according to one study—develop a mental health disorder.⁴³ Another study found that 50% of family members of homicide victims show symptoms of PTSD—they experience nightmares, intrusive thoughts, startle reactions, and difficulty concentrating—and almost a quarter develop the disorder which means that they experienced intense, ongoing symptoms that interfered with day-to-day functioning.⁴⁴

Emotional reactions, such as anger, guilt, and blame can overwhelm family members and cause behavioral changes, according to numerous studies.⁴⁵ Children, for example, may become withdrawn, have angry outbursts, struggle to perform at school, or engage in risky behavior.⁴⁶ The family members of homicide victims also often experience physical problems, including weight loss, insomnia, memory loss, gastric and cardiac problems, and diabetes.⁴⁷

Due to psychological, emotional, and physical effects, many family members are unable to resume normal functioning. In one study, the majority of parents of homicide victims reported difficulty returning to work⁴⁸ and 27% of family members interviewed in

another study had quit their jobs within two years of the murder or were fired after missing work.⁴⁹

A murder can alter the life course of family members of homicide victims by changing their sense of place in the world and their view of the world. A world that once may have felt safe becomes threatening and cruel. Studies have found that some family members experience survivor's guilt, blame themselves because they could not protect their loved one, retreat from interactions with family and friends, and fear for the safety of surviving family members.

As family members of homicide victims struggle to adjust to a new reality, they often look to the criminal justice system—police, prosecutors, lawyers, and judges—for help in making sense of the murder. One mother wanted to prevent her son from becoming a “statistic.” She wanted the person responsible to be arrested and charged; she wanted “justice for him.” Another mother wanted the criminal justice system to treat her son like “somebody [whose] life was stolen from him.” Meaning-making is a coping mechanism used by family members to rebuild belief systems shattered by the homicide.⁵⁰ The criminal justice system has the power to create or deny family members meaning. When the criminal justice system fails to respond to their concerns or solve the murder, it often complicates or prolongs family members' recovery process.⁵¹

The criminal justice system is a unique stressor for the family members of homicide victims. Criminal investigations may span several years and not produce a satisfactory outcome. Research indicates that family members of homicide victims often experience re-victimization as a result of their interactions with police, coroners, prosecutors, judges, and social service workers involved in the criminal investigation and prosecution.⁵² It is common for family members to report that law enforcement officials failed to provide sufficient or accurate information, return their phone calls, or treat them with respect or sensitivity.⁵³

A study of family members in cold cases found that the lack of communication by police “made grieving more difficult because it increased uncertainty about what

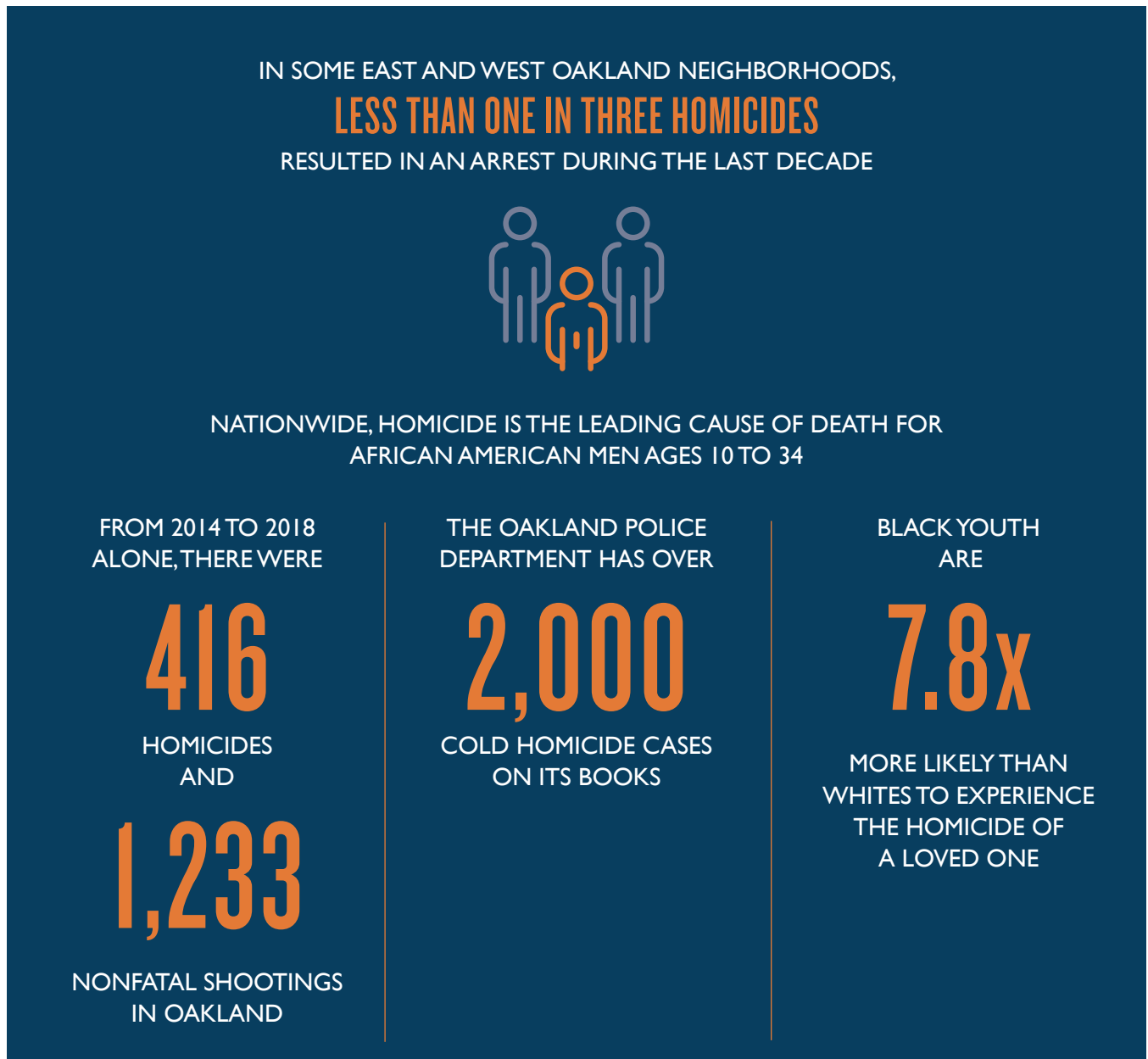
was being done in the case and because it signaled that victim characteristics might prevent the case from being solved.”⁵⁴ Several family members interviewed for this report spoke of the impossibility of closure despite the passage of time. One mother explained, “It’s never ever going to leave. You’re never going to get rid of it, the feeling, the crying, the sadness, the broken heart. It’s always going be there.” Research indicates that family members in cold cases may fear for their safety, lose faith in the legal system, and conclude that their loved one was not valued.⁵⁵ Another study has described the effects of unsolved homicides as a “chronic, never-ending disaster” for family members.⁵⁶

The growing body of research on the effect of homicide on families has largely ignored the experience of African Americans.⁵⁷ The vast majority of studies sample from white and middle-class populations although African Americans, especially black youth, are at a disproportionate risk for exposure to violence and trauma (Figure 5).⁵⁸

Victim Services in Oakland

Every state in the nation has a crime victim compensation program. From 2015 to 2019, the federal government allocated \$2.3 to \$3.4 billion each year in grants to fund services and compensation programs across the country.⁵⁹ In Oakland, a diverse and loosely coordinated network of national, state, and local organizations and groups provide services, such as grief support groups, counseling, case management, and police and court services, to family members of homicide victims. This network includes government agencies, such as California Victim Compensation Program (CalVCP) which receives tens of millions in federal and state funding to financially assist victims of crimes, and community-based groups, like 1000 Mothers to Prevent Violence, which rely on funding from private grants and donors.⁶⁰ The missions of these organizations generally are aligned with the principles underlying States' international obligation to ensure that long-term rehabilitative services are accessible to victims and their families without discrimination as a form of reparation for the consequences of human rights abuses.

Figure 5: Homicide, Race, and Trauma



Victim Service Providers

The city funds the Crisis Response and Support Network (CRSN) to respond to every homicide and shooting in the city by reaching out to the victim’s family members and friends.⁶¹ Catholic Charities of the East Bay (CCEB) is the lead agency in charge of administering the CRSN, and Youth Alive’s Khadafy Project (YA) fulfills the role of first responder within the network. YA staff assist family members with

their immediate needs, such as funeral expenses and planning, the victim compensation application, and short-term crisis counseling, before handing their case over to CCEB for case management and longer-term mental health services. CCEB is a general social service agency that provides grief, trauma, and crisis counseling; support circles for grief and healing; home visits to family and friends; benefits advocacy; assistance accessing community resources; and limited financial assistance.⁶²

Benefits and Beneficiaries

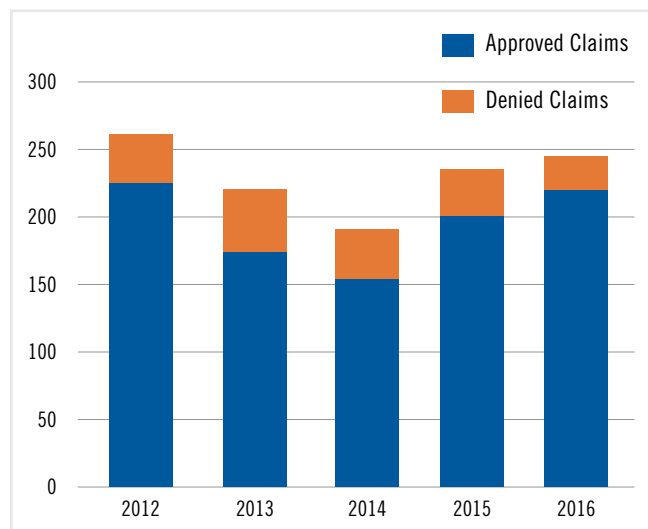
In 1965, California became the first state in the country to establish a crime victim compensation program. Today, every state in the country has a similar program for crime victims. Family members of Oakland homicide victims, for example, may apply for financial assistance to pay for the expenses resulting from the homicide through the CalVCP, which is embedded within the offices of Alameda County's District Attorney. Financial assistance is limited to specific amounts by category, an overall \$70,000 cap, and a two-year period.⁶³

Under California law, the parent, grandparent, sibling, spouse, child, or grandchild of a homicide victim⁶⁴ who 1) resides in California; 2) has sustained physical, emotional, or financial injuries; 3) cooperates with law enforcement; and 4) applies for compensation within three years of the murder may qualify for government assistance.⁶⁵ Family members who are determined to be involved in the victim's death⁶⁶ or who are incarcerated or on probation, parole, or supervised release for a violent felony are not eligible for financial assistance.⁶⁷

In 2017, the International Human Rights Law Clinic requested demographic information about family members of homicide victims who receive assistance from government-supported victim service providers in Oakland. Researchers received data for 2012-2016 from the CalVCP, which approves crime victims for financial assistance, including data related to the claims process and beneficiaries.

CalVCP processed on average 233 applications from the family members of homicide victims living in Oakland for each year from 2012 to 2016. Approximately 19% of these applications were denied each year (Figure 6). The most common justifications for such denial of a claim were lack of cooperation with law enforcement and participation in the events leading up to the crime.

Figure 6: Claims Processed by CalVCP

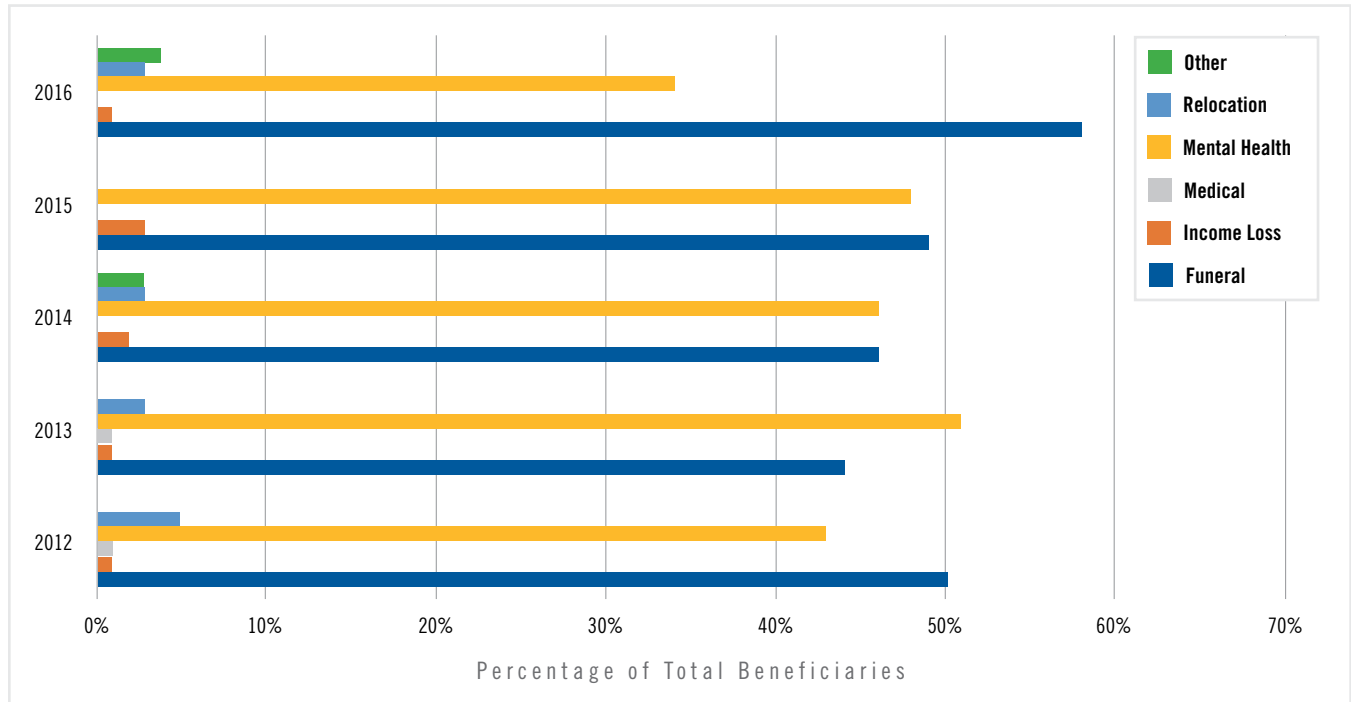


Source: CalVCP

CalVCP made payments totaling between \$312,891 and \$551,629 each year from 2012 to 2016. According to data obtained through public records requests, the vast majority of compensation funds for the family members of Oakland homicide victims—on average 80%—were approved to cover funeral-related expenses. On average 13% of the payments for family members of homicide victims were for mental health counseling, and a small percentage of funds, on average less than 2%, were approved to reimburse relocation expenses.

INTRODUCTION

Figure 7: Total Number of Claimants Receiving Financial Assistance per Year

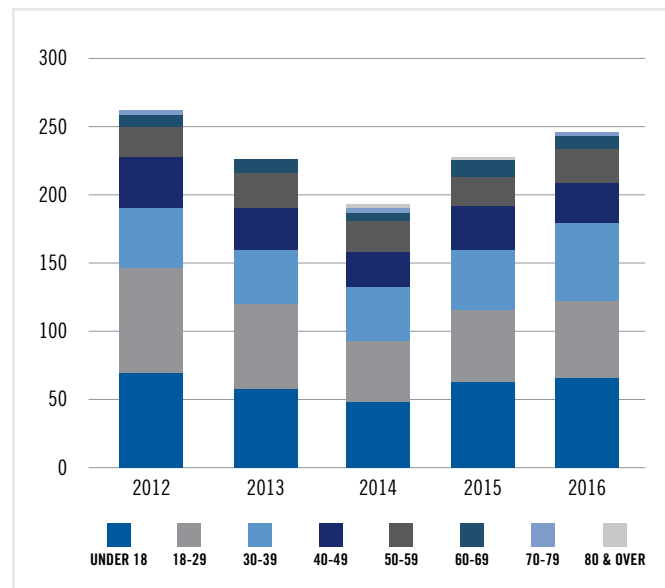


Source: CalVCP

Most of the claimants who received financial assistance, on average 49% per year, received support for funeral expenses for the victim of the homicide. A smaller number, on average 44% of claimants per year, received support for mental health counseling for a family member of the victim (Figure 7). Less than 3% of claimants who received financial assistance, received support for income loss, medical expenses, or relocation costs each year. The average payment per claimant in 2012 was \$4,815 for funeral-related expenses, \$948 for mental health counseling, and \$1,669 for relocation. In 2016, the average payment per claimant was \$6,239 for funeral-related expenses, \$798 for mental health counseling, and \$1,773 for relocation.

From 2012 to 2016, more than half of the beneficiaries, on average 55%, were female. On average, 26% were below the age of 18, and 45% were between the ages of 18 and 39 (Figure 8).

Figure 8: Age Distribution of Beneficiaries

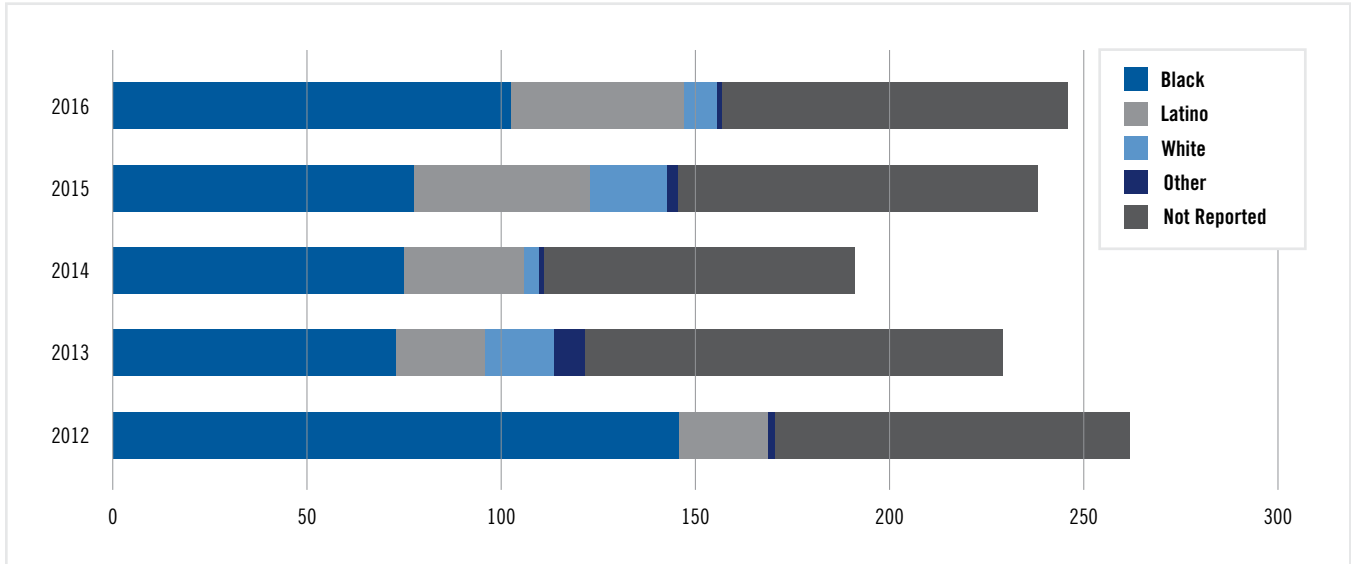


Source: CalVCP

According to the data available for the years 2012 to 2016, on average 66% of the beneficiaries of government financial assistance for family members of victims of Oakland homicides were black, 22% were Latino, and 7% were white (Figure 9). Approximately 40% of claimants did not report their race, however.

LIVING WITH IMPUNITY

Figure 9: Race of Beneficiaries of State Financial Assistance



Source: CalVCP

Catholic Charities of the East Bay and Youth Alive are Oakland’s first responders and primary service providers for the family members of homicide victims. In 2016, 70% of CCEB’s clients were black and 22.7% of their clients were Latino. Most of their clients lived in East Oakland (45.5%) or West Oakland (22%). CCEB serves mostly girls and women (71.9%), while the remainder identified as boys or men (28.1%).

Data reveals that government programs deny a significant portion of claims, almost 20% per year, often because law enforcement determines that the

victim or family members were “involved in” the death or did not cooperate with police. Each year, on average 49% of family members who received financial assistance were approved for government support to cover funeral expenses and 44% received government support to cover mental health counseling. The payouts are modest and fall well below the coverage cap of \$70,000 per year. This data is key to understanding the availability of and gaps in services family members of Oakland homicide victims can access.

STUDY METHODS

The objective of this report is to use a human rights framework to contribute to a deeper understanding of the lived experiences of the family members of unsolved murder victims. We conducted in-depth interviews with 15 family members of 16 separate murder victims that occurred in Oakland and with 38 key informants about the impacts of the homicides, the priorities and needs of family members, and their attitudes and opinions about law enforcement and victim service providers. The topics were informed by international standards and principles related to impunity. The semi-structured qualitative interviews allowed the family members⁶⁸ and key informants to elaborate on the issues they perceived as significant. Family members were identified with the cooperation of organizations that work in the areas of victim advocacy and support in Oakland. We identified key informants who could provide insights into the challenges faced by family members of unsolved criminal cases in Oakland and other cities with high rates of violence and low rates of arrests.

In this study, 87% of the family respondents were black, 13% identified as mixed race or Latino, and 73% were female. The mean age of family members was 53. Seven family members were interviewed within two years of the relevant murders; most of the others were interviewed within seven years of the pertinent murder for them, while the oldest murder took place 23 years prior to the interview. Eleven interview respondents were the parents of the murder victim and the remaining were spouses, siblings, or primary caregivers.

The family members were asked about homicides involving 16 victims; 87% of the victims identified as black and 13% were identified as mixed race or Latino. The average age of the murder victims was 23 and all but one of the homicide victims were male.

Fifty percent of the victims included in this research were killed in the police patrol area that includes East Oakland and 31% of the murders occurred in the patrol area that includes West Oakland, while 19% occurred in the Fruitvale, central Oakland area.

The 38 key informants with whom we conducted in-depth, semi-structured interviews included researchers, academics, journalists, victim service providers, policy advocates, elected officials, and law enforcement officials. Fifteen of the key informants worked with California government agencies, nonprofit organizations, or community groups that provide crime victim services in the state. Although researchers attempted to contact police officials over the course of several months, only one official accepted the invitation to participate in the study.

All of the interviews with family members, and the majority of those with key informants, were transcribed and then coded. The coding was both deductive and inductive. Pre-determined codes were generated from interview questions and researchers identified themes and patterns during the coding process. The codes covered a range of topics, including the emotional, financial, and social consequences of the homicide; the priorities and needs of family members; coping strategies they had developed; views about the investigation's efficacy; contact with police investigators; attitudes and perspectives on traditional, private, and restorative justice; and experiences with victim service providers.

Although we designed the interview instrument to minimize potential bias by avoiding leading questions, the findings presented are limited to our interview sample, which was not random. Additionally, the sample size is relatively small which also allowed for in-depth discussions with both family members

and key informants. The voluntary nature of the interviews may have caused a selection bias.

In addition to interviews with family members of homicide victims and key informants, researchers compiled a third set of data that consisted of public records. California law requires government agencies to make their records accessible to the public upon request.⁶⁹ In the fall of 2017, researchers sent public records requests to nine state, county, or city agencies seeking data from 2000 to 2017.⁷⁰ The objective of these requests was to obtain information related to crime victim services, including the relevant mandate, activities, staffing, and budgets of government agencies; training materials; the types of services or benefits available to crime victims; eligibility requirements and grounds for denial of services; and the demographic information of beneficiaries. Despite multiple efforts, several government agencies did not provide the information requested; these included the Alameda County District Attorney's Office Victim-Witness Assistance Program, Oakland Police Department, and Oakland Housing Authority.

Researchers did obtain data on service provision and client demographics for fiscal years 2012-2016 from Alameda County's Victim Compensation Program, the main source of financial assistance for family members of homicide victims. From Oakland Unite we did obtain partial data on services provided by Youth Alive and Catholic Charities, the lead community-based organizations for victim services in Oakland.

The following sections are organized to foreground the family members' perspectives and insights. The voices of victims and survivors of crime, especially black crime victims, are often missing from the public safety and justice debate. Taking the experiences of family members living with the consequences of impunity into account is a matter of dignity and justice. Listening to the perspectives of family members will lead to policies that more effectively address the needs and experiences of the family members of homicide victims. We used information from key informants and public records requests to support and elaborate upon their perspectives.

THE INVESTIGATION FROM THE FAMILY MEMBER'S PERSPECTIVE

A murder committed by a private individual does not always trigger international human rights protections because international human rights law imposes legal obligations on the State not individuals. The systematic, discriminatory failure to prevent violence, bring perpetrators to justice, and provide family members with support and services, however, constitutes impunity and a violation of the right to equal protection under international law. International human rights law imposes a legal obligation on the State to ward off impunity by conducting a prompt, thorough, impartial, and independent official investigation of human rights abuses.⁷¹

While international human rights law does not confer victims the right to have someone prosecuted, the failure to conduct an effective and thorough investigation violates the rights of victims and their families.⁷² International human bodies have underscored that impunity creates the conditions for more violence. An ineffective investigation fosters “chronic recidivism” and the “total defenselessness of victims and their relatives” according to international judgments.⁷³

Human rights law also affirms the importance of procedural justice. Procedural justice is the notion that the way law enforcement officials interact with the public shapes the public's view of law enforcement.⁷⁴ Under international human rights standards, victims have rights to receive information about the progress of the investigation and the disposition of their cases, to express their views and concerns to investigators and prosecutors, to obtain legal assistance, to avoid unnecessary delay, and to have their privacy and safety protected.⁷⁵ In cases involving killings and forced disappearances,

international courts have condemned States for conducting criminal investigations without the participation of victims' relatives,⁷⁶ denying the victim's family members access to case files during the investigative stage of criminal proceedings,⁷⁷ or failing to inform victims' relatives of progress of the investigation.⁷⁸

Over the last 30 years, laws have evolved in the United States to recognize crime victims' rights to participate in criminal proceedings. Currently, all 50 states statutorily recognize family members as crime victims and protect their rights; 33 have passed crime victims' rights constitutional amendments.⁷⁹ Under California's Constitution, victims of crimes have many of the same rights recognized by international human rights law, including the right to be treated with fairness and respect for their privacy and dignity, to be reasonably protected throughout the criminal justice process, and to be informed of their rights even when a defendant has not been charged, tried, or convicted.⁸⁰

In 2014, in an attempt to increase public trust and confidence in police, the Oakland Police Department (OPD) implemented department-wide procedural justice training. The training educates officers about the impacts of poor treatment of community members and offers principles that should inform how they interact with the community.⁸¹ Officers are trained to treat community members with dignity and respect, base their decisions on facts instead of factors such as race, listen carefully, and promote goodwill.⁸² Oakland is also receiving federal funding to implement victim-centered, trauma-informed policies to promote community engagement and healing.⁸³

From the interviews in which we explored family members' attitudes and views of the investigations of

the homicides that affected them, it seems that there are strong reasons that justify meaningful reform of law enforcement practices. Family members described their experience with law enforcement at three key moments following the homicide: death notification, the crime scene investigation, and follow-up investigation.⁸⁴

Lack of Official Death Notification

In most instances, family members do not witness the death of a loved one; it falls instead to a first responder to notify the family. Research indicates that how news of such a terrible event is delivered can have profound implications for family members' mental health outcomes.⁸⁵ Several protocols⁸⁶ for notifying the families of murder victims recommend that the notification take place in person and in private by an official who can provide "family members complete and accurate but not superfluous details of the crime, and [who is] willing to answer any questions the family may have."⁸⁷

All the family members interviewed recounted the details of how they first learned about the murder of their loved one. The majority of family members learned first from family, friends, or strangers rather than an officer of the law. Two of the family members interviewed, both mothers, witnessed their sons die. In only two cases of the other 13 did a family member receive an official death notification from law enforcement.

The Oakland Police Department does not have a protocol for notifying families about the homicide deaths of family members. Some family members first learned of the death hours after the incident occurred, which led to feelings of anger and resentment. When a victim's childhood friend called to inform one family, the victim's mother believed the caller was playing a cruel joke. The father of a homicide victim, who was informed by the victim's mother of his eldest son's murder, did not want to believe the news until he heard it from someone who was at the scene:

I went to the morgue. I was banging on the morgue door. I was telling them to open the door... I was trying to get them to open the door so I could run in, because ... I needed to see [my son's] face. I would have gotten arrested to see him... I didn't want to hear ... second-, third-hand. I wanted to know [from] the officer that was on the scene.

The lack of official notification also had consequences for the way family members perceived law enforcement. One mother recalled, "When my son died, [the police] didn't knock at this door and say, 'Your son has just died.' Or something. They didn't do nothing."

A mother of a 19-year-old homicide victim stressed the importance of the moment of notification, "I don't care that ... officers have been doing this for X amount of years, and this is their 9,000th notification. [They] don't get to be callous. [They] don't get to lack compassion, because this is my first notification."

Crime Scene Investigation

According to a recent report about policies and practices at homicide crime scenes, responding OPD officers' top priorities at the scene include:

first to ensure the safety of the scene, and to preserve life by attending to any shooting victims and searching for other victims. Next, patrol officers begin to search for witnesses and gather information. Detectives and other members of investigative teams that respond to the scene later attend to a broader array of priorities, including community interaction and communication.⁸⁸

The OPD does not have a protocol for addressing the emotional needs of family members at the crime scene. Five family members learned about the fate of their loved ones at the crime scene where they also had their first contact with OPD officers and detectives. These family members described insensitive, indifferent, or disrespectful interactions with police. They characterized their experience

with OPD at the crime scene as “hurtful” and “very traumatic” and said police officers acted like “a bulldog” or appeared “ready to fight.”

Parents of homicide victims felt that the police officers disregarded their grief and treated them, at best, like a bystander, and at worst, like a threat to officer safety. One mother recalled how she rushed to a parking lot around the corner from her house where she believed her son had been shot:

I kept asking OPD, ‘Tell me where my son is. If he is at the hospital, I want to go to the hospital.’ They just kept [saying], nonchalantly, ‘Ma’am, can you step back, ma’am can you step back?’ I know that’s [their] protocol or whatever. It’s not personal for [them]. All along, they knew my son was around the corner.

The father of a homicide victim reported that a police officer unholstered his gun and threatened to arrest him when the father crossed the yellow tape to confirm that the victim was his son. The brother of another victim shared a similar experience:

[The police] didn’t give me any information.... They told me to go, go, go. Not telling me where to go, but just telling me to go. I explained to them that that’s my brother. Then, they kept us off to the side without giving us any information. My brother’s laying there dead. Then, my other brothers came. [The police] tried to arrest [my youngest brother], because he was trying to figure out what was going on.... Then, I’m like, ‘Okay. Well, can you please have the courtesy to have an ambulance here because someone is going to get my mom. She has one son dead and one in a police car in handcuffs.’ That experience alone was just a lot to deal with for anybody, let alone a parent.

One social worker who works with the family members of homicide victims observed that police do what they were trained to do and do not shift gears when they interact with family members at the scene of a homicide. A community-based advocate lamented, “Unfortunately, law enforcement does not

think that [addressing the needs of victims is] a role for them, but I see it completely different. That’s the first line of comfort.”

Follow-Up Investigation

Communication with detectives in the wake of the homicide served to reassure some family members that the investigation was active and ongoing while lack of communication was interpreted by many family members to mean that investigative activity had stopped and the case would remain unsolved. For many family members, interaction with law enforcement was a frustrating, painful, or humiliating experience.

With few exceptions, the family members of homicide victims sought ongoing contact with investigators and information about progress in the investigation. One mother quickly listed the many unanswered questions she had about the investigation, “What do the [police] know? What have they done? There is supposed to be a video, what [did they] see in the video? Have [they] had any suspects? Who have [they] brought in?” Another mother explained that she needed the police report to get insurance payments and another mother wanted her deceased son’s car keys to move the car that was parked on the street collecting tickets. Both expressed frustration because detectives did not respond in a timely manner to their requests.

While family members pursued contact with detectives, they also acknowledged that talking about the investigation caused emotional distress. “Every time I called [the detective], I’d get angry,” a mother explained. “It just messed my whole—not for that moment—it messed my whole world up for a long time.” Another mother said, “I think I went into a place where I was now afraid to know the truth, where I just did not want to deal with it at all. I did not want to.... [It] was just too painful.”

Many family members described frequent and sustained efforts to communicate with the police. Some family members of homicide victims called the detectives every day or every week for long periods

without a response. A mother of a 2016 homicide victim explained, “I would literally call them every day, because they would not call me back. Yesterday, for example, I called, and I’ve been calling every day.” A father of a 2015 homicide victim also described sustained efforts to communicate with police, “[The detective], I text him all the time. I still text him. I tell him I’m going to bother him until it’s over, you know? I say, ‘We’re connected and until you solve this thing, I’m never going to leave you alone.’”

When the mother of the victims of a double homicide did not receive a response from police, she recalled going to the police station:

I could not understand why they were so seemingly negligent and their way of communication was harsh because we’re already very fragile, like a rose when you pinch it, it’s going to bruise. They seemed to be so insensitive, so disconnected. I didn’t know what to do, so I just became angry one day and I went down to the police station and I said, ‘Somebody’s going to talk to me. I’m not leaving here until I talk to the chief,’ not knowing that they could have said, ‘Lady, we have many jail cells around here.’

Despite their efforts, the vast majority of the family members reported only limited communication with detectives at the beginning of the investigation and no contact with the investigators for extended periods. Some family members had not heard from police investigators for over a year and others for even longer despite repeated queries. “[The detective] has never called me,” the mother of a 2016 homicide victim said. “He has never called me, never. I have to call him every time.” In fact, only two family members reported that they were able to establish regular communication with detectives.

There is widespread awareness among community-based advocates that OPD is typically unresponsive to family members’ requests for information about an investigation. A therapist who works with a community social services organization noted that “there have been instances where families are having

to call two, three, four times a day or for weeks on end, and have not heard anything. I think that lack of information ... sometimes even deepens the trauma...”

A crime victims’ rights advocate characterized the police’s continued failure to communicate as a breach of a social contract:

Law enforcement really have to communicate because the minute a survivor thinks that their loved one has died and no one cares is the utter moment a break of—a break in the social contract. Bottom line, they will simply, in that moment, think that they are the outsiders to the community. We’ve lost them. Right?

“The worst thing is silence and not returning phone calls,” a community-based social worker said, echoing that perspective. She explained that “constant, consistent connection” was “critical” for the well-being of family members. A former Oakland police detective acknowledged the importance of communication with family members and the impact of silence:

They’ve lost a loved one. They don’t know how hard you’re working on it. They’ve got no clue. Fact is, they don’t see any result at all. They think you have not done anything. You need to plan for that and think about that and communicate around that.

Several family members expressed frustration about investigators’ reticence to share information about the progress of the investigation and questioned whether the police continued to investigate as months and then years passed. Some family members believed that negligence or paucity of new leads lay behind the investigators’ silence.

From the law enforcement perspective, when leads are being pursued there can be risks to sharing information with family members. A former detective explained that law enforcement had to be careful about what information was provided to family members because “families have been looking for justice and wanted to take action in their hands.”

The former police official also recognized there was a danger in providing family members with information because police had “no control over the D.A.’s decision to charge a case” or “what people are going to say in an interview.”

Although some family members found the police unwilling to share information, seven of the family members interviewed were provided information about the identity of a suspect by law enforcement although the police had not arrested, were not planning to arrest, or had not charged the suspect. For example, one mother of a 2015 homicide victim was shown a picture of a suspect by police and then not contacted by detectives for more than a year. The mother of a 2017 homicide victim was shown photos of individuals who she recognized but was never told why she was shown the photos. The mother of an 18-year-old youth murdered in 2000 was told by law enforcement that a suspect was arrested but then released because the district attorney would not bring charges for lack of evidence. Law enforcement also told at least three family members the names of suspects. Information about the identity of the suspect was shared despite the risk of retaliation and irrespective of the emotional impact on the families.

When asked about the interactions that did occur with law enforcement, many family members described incidents when they felt disrespected, humiliated, or hurt. Many family members of homicide victims said they felt like they were now the ones under investigation. One mother recalled her encounter with detectives at the hospital shortly after learning her son was dead, “Basically, the way [the detective] was asking me questions was more like he was talking to the person that did it, instead of somebody’s mother.”

The wife of a homicide victim reported a similar experience. She said she felt that police acted like she was the criminal, “I did nothing wrong. They were very standoffish [to] me, treating me like I was a

criminal, basically.” The same homicide survivor said she had great respect for law enforcement, “I just wish they would be more diligent on really trying to be more transparent with the families and just try harder to find these suspects and get them off the street.”

The mother of a homicide victim and community activist reported:

When they first came to my house—and I get this from a lot of family members—you feel like the victimizer, not the victim. They interrogate you in such a way as you feel like, ‘Oh my God. What have I done?’ [It’s] as if they are trying to find out if you actually contributed to your child’s murder.

Some family members reported mixed experiences with the police and indicated that the interaction depended on the individual officer:

You got some good cops and you’ve got some cops that just don’t care. They’re tired. The tired ones can come in many different fashions. Sometimes they’re just lazy cops. Then, you got some that give up because they’re angry, so it’s just routine to them. Then you have some cops that really want to make a difference. They want to do the right thing. They want to solve the case. They want to get to the bottom of it, but they can’t.

The murders covered by this research occurred, on average, seven years prior to the interview. Several of the homicides were considered “cold cases” when the interviews were conducted. In these instances, law enforcement could often be seen as lacking compassion for the ongoing suffering of family members. Research indicates that in unsolved murder cases the views of family members of homicide victims toward law enforcement deteriorate with the passage of time.⁸⁹

When family members contacted law enforcement about “cold cases,” some described a “scripted” response by police. A mother of a 2006 homicide

victim, for example, expressed frustration and hopelessness with the police's generic response to her attempts to learn about the investigation:

They asked me [my son's] name, and I gave it to them. They can just type it up in the computer. His name will come straight up. They told me that his case is in the storage.... Basically, it's like a cold case. Okay, let's put this out here. Nobody is going to the storage [to] get it and look over it. Nobody is going to be interested in trying to find out who did this to my son.

Another mother echoed her frustration:

You don't hear anything unless you call and, of course, they say, 'Well, we still working on it.' Well, shit. That's what you say but my baby's file is at the bottom of—other cold cases are on top of it. Cold cases are just that: they're cold.

Search for Truth

Research indicates that family members seek information about the murder outside of the criminal justice system only in extreme cases.⁹⁰

Whether because of lack of trust or confidence in law enforcement or frustration with their perceived passivity, several family members interviewed for this study described their attempts, often at great personal risk, to uncover information about their loved ones' murder.

Most family members reported that they believed they knew the identity of the person(s) responsible for their loved one's murder because the police had provided this information or they had undertaken their own investigation. Family members sometimes also identified potential witnesses, uncovered evidence (such as cell phones and numbers), and spoke with suspects.

Family members reported that they shared much of the information they discovered with police. One mother explained, "If we hear anything. Anything. It can be the smallest thing. I don't care what it is. You just don't leave any leaf unturned. You exhaust all

possibilities." Family members also recognized that some witnesses were unwilling to cooperate with police because they mistrusted them or feared for their safety. For example, a sibling of homicide victims explained:

Supposedly, there were neighbors or people who saw, but people don't want to talk They [have] had bad experience with the police, or [they would say,] 'The police ended up arresting my brother,' or 'They shot my brother.' There was always something where they just didn't want to help in that sense.

Safety, those family members interviewed said, was the main reason witnesses they had identified would not come forward and provide information to police. One father said that the witnesses of his son's murder were afraid of retaliation if they provided information, "[It] would get back to the murderer and they would know that they snitched or something. People didn't want to talk."

This view was echoed in interviews with community-based service providers. For example, one experienced advocate explained:

I'm not saying that everybody who gives a statement they're going to be [the victim of] retaliation, but that's a real possibility. Oftentimes, law enforcement does not acknowledge that, and are very quick to say that people are not cooperative....

Law enforcement practices during investigations generated feelings of mistrust, stigma, and frustration among the family members of homicide victims interviewed for this report. As the next section discusses, crime victim service providers must address not only the anguish caused by the loss of a loved one, but the painful experiences family members encounter with law enforcement. Rather than provide support, crime victim eligibility requirements can further exacerbate the marginalization of families and overwhelm under-resourced and understaffed community-based victim service providers.

OBSTACLES AND BARRIERS TO VICTIMS' RIGHTS AND SERVICES

Human rights violations have severe and ongoing impacts on victims. Under international human rights law, States have an obligation to ensure that long-term services of rehabilitation are accessible to victims and their families without discrimination as a form of reparation for the consequences of human rights abuses.⁹¹ Rehabilitation, as defined by international human rights bodies, is:

*the process of restoring the individual's full health and reputation after the trauma of a serious attack on one's physical or mental integrity ... which seeks to achieve maximum physical and psychological fitness by addressing the individual, the family, local community and even the society as a whole.*⁹²

A system of rehabilitation, in other words, should be holistic and services, which may include physical and psychological services, as well as social, legal, and financial support, should be available, accessible, and appropriate.⁹³

Access to appropriate support, including mental health services and relocation, can also help prevent retaliatory violence, which has been determined to be responsible for the majority of Oakland homicides.⁹⁴ Social workers and therapists from community-based organizations respond to every homicide and shooting in Oakland by reaching out to the victim's family members and friends.⁹⁵ These organizations help the family make funeral arrangements, apply for government financial benefits that are available for crime victims under California law, and facilitate access to case management and counseling. While California law and Oakland crime victim services recognize the rehabilitative needs of victims underscored in international legal standards,

in practice many of the family members of Oakland murder victims interviewed for this report lacked access to the long-term, holistic support needed to rebuild their lives.

Knowledge of Rights

The first step in providing access to appropriate services is recognizing that the family members of homicide victims have legal rights as "victims," and service providers, police, detectives, prosecutors, and judges have the obligation to respect their dignity throughout the criminal justice process. Under California law, victims of crimes—including the spouse, parents, children, and siblings of homicide victims—have the right to be treated with fairness and respect for their privacy and dignity, to be reasonably protected throughout the criminal justice process, and to be informed of their rights even when a defendant has not been charged, tried, or convicted.⁹⁶ Law enforcement and prosecutors are legally required to notify victims of these and other rights "at the time of initial contact."⁹⁷

None of the family members interviewed recalled receiving information, verbal or written, from law enforcement about their rights as crime victims. When asked about her knowledge of the legal rights of a crime victim's family members, one family member had a typical response, "Do we have rights? Because I was never notified." Although the law requires law enforcement to inform crime victims of their rights, in practice family members of homicide victims are often unaware of legal protections. It is typically community-based organizations that end up taking the lead in helping family members gain access to government benefits.

Finding Assistance in the Fog of Grief

Most of the family members interviewed reported receiving government support and services after the homicide, however. Of the family members who applied and received government support, most received assistance with funeral expenses. Though the amount was not always considered adequate to cover all funeral-related expenses, it was of great benefit to some. One mother, for example, reflected on the significance of the financial assistance she received from the California Victim Compensation Program (CalVCP):

In my heart, I did not want to cremate [my son]. [CalVCP] really helped with me being able to bury my son, and have a closure. It helps me a lot now to be able to go to his gravesite, and talk to him, and have a headstone for him.

Overall, the response to the provision of services and financial benefits was positive, though they were in some cases considered inadequate or inaccessible. Several family members were offered government assistance to pay for therapy or were offered counseling sessions from community organizations and took advantage of these opportunities. A few family members also received financial assistance for relocation, or were provided household goods such as groceries, furniture, and appliances. A couple of family members described the government support positively, saying it was “so helpful,” “a lifesaver,” and “a big support.”

Several family members, though, felt overwhelmed by the complicated, bureaucratic application process used to determine eligibility for government assistance. Government and community-based victim service providers recognized that family members have difficulty completing the application process and offered help, but not always at the most appropriate times or consistently. Community-

based social workers aim to contact family members within 24 hours of the murder to inform them of the services available. However, this outreach takes place, according to some of the family members, when they are “an emotional wreck,” and “so traumatized, they can barely think.” As one mother who had been contacted by community-based organizations about services put it, “[A]t that time you say, ‘Yes, [I] understand.’ You think you understand. But you really can’t hear what they’re saying.” Another mother described feeling “rushed” by the application process to make decisions about her son’s funeral.

Several family members also remarked on the lack of follow-up. One clinical social worker who has worked with family members of homicide victims for more than six years explained that community-based service providers had an immense amount of pressure to contact family members immediately after the homicide when many were too emotionally fragile and distraught to act upon the offer of assistance and then, she said, the service providers often failed to follow-up. The director of one of Oakland’s main community-based victim service providers described reaching out to family members immediately after the incident and then after three, six, and 12 months, but acknowledged that the organization did not maintain long-term contact with family members.

According to family members, despite the long-term and ongoing impacts of the incident, investigators and victim service providers typically “have moved on” after the initial year. A mother explained that the victim service providers “helped me a lot in the beginning, right after. But they have not contacted me in a whole year.” A local victim services program manager explained:

Some of the service providers think of this as [a] binary decision. The family members either want or do not want services. The ‘system’ does not seem to take the proposition seriously that family members’ needs may change over time.

The Limits to Eligibility

Under California law, as previously noted, the family members of homicide victims are not eligible for government financial assistance while incarcerated or on probation, parole, or supervision for a violent felony.⁹⁸ Family members are also ineligible if CalVCP determines that they did not reasonably cooperate with the investigation⁹⁹ or if the family member or the victim was involved in the events leading to the crime.¹⁰⁰

The director of a community-based program explained the consequences of being on parole or probation for crime victims:

[Y]ou're a victim. You're on probation. You get assaulted. Your probation status prevents you from receiving any resources. If I'm on probation and my son gets killed, I can't receive resources for my son being killed.... The minute I come off of probation, great, but I'm on probation for five years, and my kid gets killed today.

A couple of the family members of homicide victims reported that they were deemed ineligible for government financial assistance because the victims had been involved in criminal activity. A family member of the victims of a double homicide explained:

[CalVCP] did not want to pay because of [the victims'] background. That was held against us because [the homicide victims] had previous criminal records.... [CalVCP] didn't want to pay for their burial. Luckily, [the] family came through and buried both of them together.... I even asked for counseling for my son as he got older, and [CalVCP] was like, 'No, we can't offer that.' I wish they would have offered him some kind of counseling, because that was really hard for him, growing up without his dad.

Another mother explained that she was ineligible for government support because her murdered son had once served time in jail. She did receive assistance with funeral expenses from a community-based organization, however.

Government victim service providers do not approve applications for government assistance until the police submit an "in lieu" report, which one community-based victim service provider described as a "condensed report" drafted by police before "the full investigation has taken place." The report includes police conclusions regarding the eligibility of the family members for government assistance and grounds for denial. The police's findings regarding the victim's involvement in criminal activity or their assessment of the family members' cooperation with the investigation determine family members' access to financial assistance.

Several community-based service providers expressed concern about the considerable authority and discretion police have to deny access to government financial assistance under the current law. A community advocate believed that the police often based their judgments simply on assumptions about the victim rather than on evidence and challenged the power of the police to deny a victim's family support based on what they believe rather than what they can prove. Another community advocate echoed this perspective, "The fact that services can be denied based on what a police officer says is wrong because you don't have the whole story. You have what the police officer said.... It's all subjective."

A social worker expressed concern that police use inaccurate databases about gang activity to deny access to service:

Throughout our communities, we see that many individuals are identified in a database as being involved in a gang. We know that is not true.... Many community members, especially young men of color, are being [mis]labeled as being part of a gang. That, the majority of the time, denies them from accessing services and denies that family from getting services for that victim.

Another social worker said that the police often leverage their authority to deny access to government assistance to compel family members to cooperate with the investigation:

[The police] want to leverage the family for information. The person may not have even had a gun, may not have had drugs, may not have really been gang-affiliated. Because they believed that the family knows something about this homicide, they leverage it by giving an unfavorable report. That happens a lot, too.

A community-based service provider challenged the rationale of the current policy more broadly:

Now, as it stands, if the victim contributed to the murder, the family left behind gets no help from the state of California, and that's where our organization tries to fill in that gap. It's not fair that the children have to go through this type of grief-related stress for the rest of their lives, because in most of the cases, the families have no insurance [and] have no other means of getting the therapy that they need.

Another social worker with extensive experience providing support for Oakland family members of homicide victims said that ineligibility criteria “further perpetuate the oppression, the disenfranchisement, [and] the lack of support of services” available to the families of homicide victims judged to be responsible for their own death.

Several community advocates expressed concern about the ineligibility for support and services of family members of victims of officer-involved shootings. One community-based service provider made an observation that was echoed by others that individuals shot by officers are not considered victims, but “[t]here is still a family that is suffering.”

Oakland-based community organizations, themselves often seriously understaffed, attempt to fill the gap in access to services left by the state’s ineligibility criteria. However, they operate with significant limitations as one social worker explained, “Most often, these organizations are volunteer-based, receive no funding at all, [and] lack support from existing

government bodies or victim services.” Another social worker noted that while her organization had an annual budget of approximately \$40,000 for financial assistance to crime victims, “[i]t sounds like a lot, but it wasn’t...” She explained, “[In] my first years, we would easily have 150 ... 200 homicides—the homicide rate was really high. You divide that into \$40,000, it’s \$200 a family.”

Availability of Accessible and Appropriate Services

Several family members lauded the efforts of community groups to provide counseling and organize grieving circles. Meeting other mothers coping with the loss of a child to violence was described by several mothers as a “great help.” One mother explained the role that a grief circle played in her recovery:

I was able to come around parents that ... went through the same exact thing that I went through. That was really, really comforting for me to know that there is somebody out there going through the same exact thing.

Access to appropriate counseling services was limited, however. One family member expressed frustration with counseling techniques that seemed to her inappropriate for her situation and had “nothing to do with grieving or somebody being murdered.” Some clinical psychologists and social workers recognized the importance of helping family members understand why therapy is important, but also how important it was to identify counselors who are “immersed in, or at least somewhat knowledgeable about, the conditions that the person has lived in.” One local advocate described therapists and medical personnel “who have been so taken aback, shocked, maybe even fearful of what is being presented to them, that they’re not able, really, to provide a service.”

Another barrier to taking advantage of appropriate services that family members mentioned is cultural. A father described feeling hesitant to engage in therapy because of what he felt was a social taboo:

There is ... a taboo in black families, like therapy—it's just quote-unquote 'white people want to get in your business.' They're going to make reports and do all this other stuff, because they are mandated reporters, and they're going to make it worse than what it is. There is this distrust of therapy and some of those systems. Families end up suffering inside and they kind of cope.

For some, geographic distance was more of a barrier to taking advantage of services than social distance. For example, a mother who relocated her family explained:

We did not take advantage of the counseling that [CalVCP] offered because where we live there is nobody who specializes in that, like nobody. Same was true for my son. If you wanted a therapist, then you were going to have to come to [Oakland from Hayward or Fremont], because that's where people have that skill set.

A social worker echoed this view, “Crime victims must navigate that difficult process of having to go somewhere, to a location that’s not within their community, and having to deal with many different agencies and long waiting periods to get services.”

One social worker viewed the lack of accessibility in the context of a more general failure to address the needs of crime victims from communities with high levels of victimization:

Historically, there has been a lack of data on some of their needs and a lack of data on how crime survivors inside [these] communities heal and recover from harm.... [M]any crime victims have difficulty navigating the system when it comes to getting help, but also being able to identify where victims need to go to get services, whether it is counseling, therapy, [or] assistance with the criminal justice system.

In the case of Oakland, opposing views emerged about the location of Alameda County’s crime victim’s compensation program within the District Attorney’s office. For government service providers, sharing a location with law enforcement improved communication and cooperation between victim service providers and law enforcement. Community-based social workers, by contrast, expressed concern that the location within the District Attorney’s offices could foster distrust of services among some family members and impede access. There were family members, one local advocate explained, who would not interact with the Alameda District Attorney’s Office because “all the D.A., the police ... seem[ed] like a red flag, a monster to them.”

THE EFFECTS OF IMPUNITY

Impunity is a disease that exhibits different symptoms: the failure to carry out effective investigations, bring perpetrators to justice, provide reparations to victims and their families for the harms suffered, and ensure that the violation does not recur. It can have dire and profound consequences for society, victims, their families, and their communities. For family members, living with impunity in Oakland has meant experiencing disrespectful and discriminatory treatment by police, limited availability of services and restrictions on who can take advantage of them, and an enduring cycle of violence. Several family members have two, three, or four relatives who were killed in Oakland in separate incidents, and the police have not made an arrest in any of the cases.

While Oakland is obviously not war-torn Bosnia or Rwanda, the effects of impunity identified by international courts are relevant to understanding and addressing the experiences of family members of murder victims in Oakland. International courts have recognized that impunity subjects victims and their family to social isolation and stigma and have ordered States to provide compensation when authorities respond to legitimate demands for justice and accountability with sham investigations and trials and by criminalizing the victims and their families.¹⁰¹ Under certain circumstances, international courts have held that the suffering and anguish caused by impunity constitutes torture or cruel, inhuman, or degrading treatment of the victim's family members.¹⁰²

The effects of impunity undermine the dignity of victims and family members. A dignified life requires not only physical integrity and financial opportunity but the possibility of achieving personal goals and projects. Separate and apart from the loss of income or the expenses that victims and their families may incur as a result of an act of violence, a human rights analysis draws attention to the damage inflicted by violence on the life plans of victims and their

family members.¹⁰³ The Inter-American Court on Human Rights has defined "life plan" to encompass an individual's calling, potential, and ambitions.¹⁰⁴ The court has addressed the loss of life options, such as the inability to pursue an education, professional ambitions, or personal goals, as an injury and ordered States to pay compensation, acknowledge wrongdoing, and establish educational scholarships.¹⁰⁵

This section explores the effects of impunity reported by the family members of the victims of unsolved murders on their grieving process, their views of the police investigation, their sense of security, and their life plan.

Disenfranchised Grief

All the family members interviewed described intense and ongoing emotional, psychological, and behavioral effects of the Oakland homicides, in some instances for many years. They described experiencing a variety of feelings including shock, anger, sadness, debilitating depression and anxiety, loss of memory and concentration, insomnia, paranoia, the desire to escape reality through sleep, and an intense fear of the future.

Most of the family members interviewed are parents of a homicide victim. One father said that the daily pain associated with the loss of his son was like having to crawl through broken glass:

Every day. It is cutting you and it is burning you and you are bleeding, but you can't stand up and get out of the glass. That glass is your reality now. Now you just deal with that pain. You just figure out, 'If I lean up a little bit, it's not going to cut me as bad.'

More than half the family members described an ongoing, long-term struggle to cope with the effects of the homicide. Although years may have passed since

the murder, several family members said that they still felt like it “happened yesterday,” and others spoke of the impossibility of closure or healing despite the passage of time. One mother explained, “It’s never ever going to leave. You’re never going to get rid of it, the feeling, the crying, the sadness, the broken heart. It’s always going to be there.” Another mother reflected on the expansive nature of her grief, comparing it to “a tree with a lot of branches, and a lot of leaves.” Three of the 15 family members said that they sought in-patient mental health care after the homicide.

There is widespread recognition in the literature that homicide can be emotionally and psychologically devastating for family members. When the death results from the deliberate actions of another person, the victim’s family members have to deal with the consequences of the loss but must also face the police investigation, the media, and the criminal justice system. When the police do not solve the homicide, the wound inflicted by the loss of a loved one may deepen.

During our Oakland interviews, many respondents also described the dynamics associated with “disenfranchised grief.” Disenfranchised grief is defined as “a loss that is not or cannot be openly acknowledged, publicly mourned, or socially supported.”¹⁰⁶ The disenfranchisement of grief is linked to the presence of stigma and blame that casts the victim as culpable and denies their family members the right to grieve.¹⁰⁷

A clinical social worker with a community-based service provider believed that many Oakland families felt they had lost the right to grieve openly for their loved ones because of the perception that the victim was gang-affiliated, carried a weapon, or sold drugs and therefore involved in or responsible for their own death. An academic researcher in the field of social work echoed the view that stigma is pervasive if the victim is a black man and the murder is perceived to be gang- or drug-related; the view was, in other words, “so [the homicide] was in essence their fault....”

A community advocate and mother of a homicide victim explained that the stigma associated with the murders of black men in Oakland undermined family members’ feelings of belonging to the community by denying the victim’s value to society:

The average family member that I work with does not feel supported by the system. They don’t feel valued. They don’t feel that their child’s life was valued. It doesn’t matter if a child was on drugs or even if the child contributed to the crime. For a mother, that’s our baby. That child was born bones of our bones, flesh of our flesh.

Another mother expressed frustration with the stigma associated with the murder of young, black men in Oakland:

The number of times that people ask me, or they don’t ask, and they think what was [my son] doing? My standard answer is, ‘He was getting shot.... It’s Friday night. He’s 23. He was out with his friends, because that is what 23-year-olds do on Friday nights.’ Again, it’s he had to be doing something. He’s black. He’s young. He’s in Oakland on a Friday night.

An Oakland-based social worker reported that stigma affected the availability of support and services:

I see council members and the mayor throwing a lot of resources at the mothers who had innocent sons and innocent daughters who were victims of homicide and no support services to the ones who are deemed somewhat and partially responsible for their own homicide.

Laws that exclude victims and their family members from financial assistance reinforce this view.

The expectation of society is that when violence occurs, the police will diligently investigate and attempt to solve the crime. According to family members interviewed for this report, the response of law enforcement defied this expectation. Several family members explained that the lack of justice and

truth—the failure to establish what happened, why it happened, and who was involved—affected their grieving process and intensified the stigma associated with the death.¹⁰⁸ One clinical psychologist explained how family members in Oakland often feel:

[L]aw enforcement is not really interested in finding the murderer because they already have in their minds that black people just aren't as valuable. It's very frustrating; it's very painful to think that something horrible happened to somebody that you loved and nothing is being done about it.

One mother said, “I really feel if the police was doing their job, I could live. I died when my son died.”

For some, the lack of justice undermined their ability to find solace in their family and community or drove them to isolate themselves. One mother described being haunted by questions law enforcement's investigation failed to answer, “I stayed in the house. I stayed in my room. I stayed crying. I stayed depressed. I stayed just wondering why. He didn't do nothing to nobody.” Another mother described feeling the weight of the community's eyes on her family after her son's murder which led to her decision to move:

I'm not saying Oakland is bad, but when you don't know why your kid was murdered, it's hard to go to the gas station. Me and my kids would go to the gas station, and people would be staring at my [other] son and stuff, because they know my kids. They know, that's [my son]'s brother, or that's so-and-so, because they went to high school together.

One mother explained that she avoided other mothers living in her neighborhood whose children had also been murdered, “[B]ecause that is something they don't want to talk about. Because the killer is still walking around here, too. They don't know. I might be the killer. You know, in their minds.”

Several of the social workers and therapists who work with family members described their clients struggling with stigma and the feelings of isolation, shame, and blame:

What I can say anecdotally is that the legacy of the unsolved murder is it seems to utterly rupture the faith that anyone can help [the family members]. Because they are calling anyone and everyone. Everyone is saying, 'I can't help.' There's this utter desperation and helplessness in their contacts.

An additional factor that family members believed affected their ability to recover was chronic exposure to violence. More than half of the family members reported having experienced the homicide or shooting of more than one family member. One mother, for example, said that she had been struggling to cope with the murder of her young daughter by a boyfriend when her son was killed. Another respondent's son, wife, brother, and nephew were all killed in separate incidents in Oakland. None of the murders had been solved. A social worker reported visiting a shooting victim who had been shot 20 times and survived, “I said to him, ‘Have you had any other experiences?’ He took me to his bedroom door, and I stopped counting at 19 funeral cards.” Several family members also had experienced violent encounters with the police and incidents of domestic violence and rape.

One social worker and academic who has researched and written extensively about the lived experience of family members of homicide victims in the African American community remarked, “This whole idea [of the] stages of grief really does not necessarily apply because people do not even have time to catch their breath [before] the next homicide has occurred....” Community-based service providers who offered counseling and therapy explained that it was impossible to address prior exposure to trauma in the context of counseling. “[W]e have to hold the boundary of not addressing all the preexisting conditions. We can't address all of those. We can help them with the toolkits to address the current trauma that will also help the preexisting trauma conditions,” one social worker explained.

Perceived Police Bias

Scandals about racial bias and abuse of power have been a feature of the Oakland Police Department (OPD) for more than two decades.¹⁰⁹ For 15 years, OPD has failed to comply with a federally monitored consent decree that requires the police department to eliminate racial profiling and curb officer-involved shootings. In 2019, a study of OPD policing practices found that black men were four times more likely than whites to be searched during traffic stops and far more likely to be handcuffed even when the stops did not result in an arrest.¹¹⁰ As OPD engages in the overpolicing of the black community, it fails to protect them from violence.

Most of the family members interviewed did not believe the police had conducted a reasonable investigation of their loved one's murder. A few family members identified detectives by name who they felt tried to solve the case, but most were highly critical of the investigators' tactics, methods, and inactivity. They used words like "sloppy" to describe the investigation, they said the investigators were not doing "enough," and described investigators treating their deceased loved one like "just a number." Family members provided details about specific actions they thought police had failed to perform: a witness or suspect they ignored, video evidence they failed to obtain, or a location they did not canvass, for example. One mother of a 2017 homicide victim said she felt like the police were depending on her to provide information to solve the murder.

Half of the family members interviewed attributed the investigation's lack of progress as well as the investigators' failures to communicate with family members to the victim's social status and to race. One mother described a general disregard for the African American community by police, "the lack of police concern about [African American] kids period is a big thing, because no crime will be solved if you don't care about the community or the folks that are in the community that you're serving." A mother of a 2011 homicide victim stated:

[The police] still haven't reached out and given any information, because it's like, 'Oh, [my son] is just another black guy dead.... If the police would start solving these cases, there would not be as many killings. Go to Oakland, do your killing, because you're going to get away with it.

An Oakland resident whose husband and brother-in-law were murdered explained:

[OPD] seemed like they didn't really want to investigate it ... because [the victims] had criminal backgrounds. Okay, it's just two other brothers dealing drugs or whatever ... and we're not going to waste our time on it.

One father echoed this perspective, "Once [the police] heard gang banger and they knew that the guy was a gang banger, they just left it alone." A mother of a 2010 homicide victim also shared the observation: "I don't think that they conduct reasonable investigations unless it is the perfect victim or an acceptable victim." Two family members used the term "public service murders" to describe their perception of how the police view the deaths of young, black men in Oakland and why the police do not properly investigate them.

Other family members detected a similar perception of bias. One father said:

[T]he police feel like, 'These bastards' karma is going to catch up to them and one day they're pointing the barrel at somebody, the next day they are looking down it....' They're going to all keep doing it until they become extinct themselves.

Another mother found bias in the relative absence of rewards offered for information on the killers: "I just know [the police] are not going [to] put too much effort into [the investigation]. There are two young black boys gone, but no reward out. I think that's wrong. Somebody else comes up missing or hurt, [the police] put rewards out. That gets people to talk. That money talks."

Family members also described their efforts to counteract the pernicious effects of bias and racism. A mother explained:

I'll call [the detectives]... I'm going to call them, and I'm going to continue to go [to the police station] because I'm not going to have my son become a statistic where he just is gunned down in the street like that, and they sweep it up under the rug. Whatever I have to do, I'm going to do it because I don't want that for my son. I don't... Too many people get killed, and they don't find the killer, and it's just forgotten about. No, not my son. No. No. It's not fair.

Another mother described her efforts to ensure that the police acknowledged her son's value to society:

I'm trying to make [the detective] understand you need to really work on this because this is somebody that got—life was stolen from him. He's just not anybody. He's not no gang banger out here who you guys don't care about whether they kill each other or because they're a nuisance to the streets anyway. No, he's not. He is somebody. [My son] was somebody. He was going to be somebody.

Bias and race also emerged as a recurring theme from interviews with community-based advocates, scholars, and law enforcement. While an OPD respondent framed community views of the police as racist or biased as the result of past wrongs, advocates identified racism as a phenomenon that was alive and well. As one advocate put it, "There seems to be a consistent suggestion, inference, if not directly saying that, somehow, particularly with young men of color, that they were somehow complicit in their homicide."

Loss of Security

Family members reported that the homicide profoundly altered their sense of security and safety. According to interviews, feelings of insecurity and fear were compounded by the failure of authorities to identify and/or punish those responsible for the murder. Until the murder is solved and the perpetrator is held accountable, family members may feel that their safety is at risk, according to research.¹¹¹

Only one respondent said she did not have safety concerns. The rest of the family members interviewed described fear and feelings of insecurity. Several parents and grandparents said they feared for the safety of their surviving family members, particularly their male relatives. One mother based her perception of being at high risk for retaliation on the pattern of violence in Oakland. According to this mother, "The way these murders work ... it's not like they want to get one person out of the family... I've seen a lot of women with five sons and either four of the five or all five of their sons have been murdered." A different mother shared her fear for the safety of her surviving son who had witnessed his brother's murder in 2010, "I continue to be concerned about him being the surviving victim of an open homicide case."

In some cases, family members reported that they feared having to face the person they believed or were told was responsible for the murder. For example, one mother learned that the person she believed shot her son planned to attend his funeral. Others who did not know the identity of the perpetrator reported feeling tormented by the fear that it could be anyone. One father explained:

[Y]ou don't know if it's your next-door neighbor. You don't know if it's the woman who's riding on the BART with you; if it was her son that did it. You don't know if it's the man in church that's sitting behind you; if it was his grandson. The unknown is what bothers a family. People want to know. They want a name and a face; they want a focus.

A government service provider explained that when the perpetrator was at large, it was common for family members to experience more fears and a decreased sense of security and trust:

[F]or humans, knowing what happened is important. Not knowing, you're just forever questioning. Those tapes just keep running in your head. It's harder to get to the place of peace. I think you hold on longer and have a harder time letting go, because you just do not know. You don't know if somebody else is next, and you don't know what the motivation was of the person.

Some family members isolated themselves as a measure of protection. One mother explained, "I didn't want to see no one, talk to no one. I just was confined to my room. Because you don't, I don't know—the boy that shot and killed my son could be out there right now." Another mother explained, "I clearly trust no one. That's just not smart to trust anyone completely." One family member said he bought a firearm to protect himself after the homicide.

A couple of respondents described protective measures implemented by law enforcement. Oakland police increased patrols of one family member's neighborhood. In another case, police traced threatening calls. However, several other family members reported that the police did not respond to their requests for protection.

Safety concerns even led some family members to move away from their homes or leave their communities. Families sought to relocate to reclaim a sense of safety or in search of peace of mind. One mother described how her interaction with law enforcement informed her decision to relocate:

I was afraid because I didn't know who [the murderers] are, where they are at... [The police] told me, 'Well, try not to worry about it. Most cases, most criminals, they don't usually go after the family; they kill who they want to kill and they leave it alone.' I was like, 'Well, okay, that's what

you're saying, but I don't know that to be true. I just went with it and said, okay, but I still moved out of that apartment. I just relocated.

During interviews, several community advocates recognized the importance of support for relocation. "[A] family's sense of security and safety is just so jarred from the crime that relocation is necessary..." a government service provider acknowledged, for example. "Either it is for their safety or for their emotional well-being."

Providers of services spoke at length about the complex and complicated challenge of relocating Oakland family members of homicide victims. The gentrification of Oakland has made it more difficult to relocate family members to a new home within the community. Affordable housing and cooperative landlords are scarce, according to providers of community-based victim services, and crime victims are eligible for up to \$2,000 from the state for relocation expenses. Landlords require new renters to make a deposit, pay first and last month's rent, and show proof of income. Some of the families are supporting themselves through informal means, while others may have criminal backgrounds that make them ineligible for government-subsidized housing. Further, as one government service provider explained, "[T]here's a whole lot of paperwork [that goes with government reimbursements for housing which] scares away landlords..."

Service providers expressed particular concern about the precarious situation of families living in government-subsidized (e.g., Section 8) housing at the time of the murder. A clinical social worker with years of experience in case management reported that the risk of homelessness is high for this population because families living in Section 8 housing must report changes in the size of the household to authorities. Authorities may require the smaller family to downsize to a smaller unit. This social worker reported having assisted parents of homicide victims living in Section 8 housing who were asked to downsize within 30 days of their child's death.

While relocations may address safety concerns, it may also create other problems, according to some respondents. Many families who did relocate, in some cases to outside the city or even outside the state, found themselves without a support system and unable to access needed services. As one therapist explained, the lack of affordable housing in Oakland forces families to relocate further and further away to “areas that have not seen violence. Oftentimes services are not aligned or are not available there.... There are no counselors that might relate to your issues there. There are no other programs that potentially could help you.”

Loss of a Life Plan

Several family members described long-term and life-altering effects of the homicide on their later lives. The loss of a loved one due to any cause can be life-altering, but the sudden and violent loss of a loved one is more likely to cause intense grief that impairs daily functioning.¹¹² Almost 20 years after the murder of two of her sons, one mother described the seismic shift to her life, “I had a plan, an action plan to educate, to raise my boys to get them into college and to go back to Mississippi to help my family out of poverty. I can’t say that dream has died completely, but it’s been largely delayed.” One father left his job as a government social worker after his son’s murder and said, “I swayed from always being very impartial, very objective to [becoming] more subjective because of my pain. I couldn’t hide it. I didn’t want [to] be that kind of social worker. I didn’t want to judge. I just wanted to help.”

Several family members explained that they have been unable to return to work even years after the homicide. One mother of a 2017 homicide victim reported, “[The murder] has affected me to where I’ve been off my job since November. I thought I could go back to work, but mentally, I can’t, because every now—I just—something just come, and I just break.”

Family members grieved not only the loss of a loved one, but the loss of a future they had been counting on. One mother explained, “My kids have lost their brother. My grandkids have lost an uncle.”

Grandparents who planned to retire are now raising their grandchildren, and in the case of one family, their great-grandchild. A community-based social worker described the breadth and depth of family members’ loss in similar terms as the family members:

It is not just my son died. I will never know what kind of a father my son will be. I will never know what those grandchildren will look like. I will never know what that son or daughter would have done with their life, what they would’ve achieved. There’s a whole assumptive future that’s lost.

While many family members mourn a future lost, some family members created a new version of their future that is shaped by the effects of the homicide and the lack of justice. A couple of the family members founded community-based groups to support the family members of homicide victims. Others expressed an eagerness to participate in efforts to address violence in Oakland.

Both family members and service providers concurred that families did not receive the support they needed to address the long-term, life-altering impacts of homicide. The government assistance that is available to family members who apply within three years of the crime and covers limited expenses and services for a maximum of two years was seen as inadequate in many instances. One community-based victim service provider observed:

The coverage of medical and mental health expenses, over the entire course of the entire homicide reality, needs to be addressed. We have caps in victim compensations that are often nonsensical when you think about unsolved crimes [and the effects] [t]hese families will endure for the rest of their lives.

Several providers of community-based services acknowledged that they and their colleagues do not systematically follow up with family members who initially decline government assistance, including for mental health counseling. A local therapist remarked that family members are left to fend for themselves

although many lack the tools or support to recover on their own.

Several victim service providers underscored the risks associated with the current system. Oakland family members may have a safety net that is “pretty narrow,” noted one government service provider. “You move a little bit to the right and you fall, nothing is going to be there to catch you.... You have a ton of extra bills to pay for because somebody in your family got killed. Then suddenly you can’t pay your rent, and suddenly you’re kicked out of your apartment.”

Many of the service providers we interviewed also believed that the lack of victim services and adequate support fostered violence. They said there was a “snowball effect” and explained that “today’s victim is tomorrow’s perpetrator.” One social worker remarked:

Hurt people hurt people, right? When crime victims and their trauma and stress go unaddressed, they face significant difficulties getting back on their feet.... Without support, without services, without opportunities to heal, [the family members of homicide victims] may become just as involved [in] violence. If we don’t invest in more strategies, in more programs, in more services to help people, then the cycle’s going to continue, right?

According to this social worker, the stakes were high but the opportunity to shift the focus of individuals and their community in a more positive direction was obvious:

If we provide assistance to families, to victims, then we have a unique opportunity to change the path of someone’s life so that they don’t have to carry a weapon, so that they don’t have to commit a crime. Maybe they were working before the incident happened. The incident occurred. They lost their job. Now they don’t have any financial support, right? [Investments] in programs and strategies and direct investment into families and into those community organizations that are serving these victims is a high priority.

This social worker’s words capture an ethos that informs the efforts of many community-based victim service providers in Oakland. By addressing the effects of impunity through the provision of services and support, these groups aim to break the cycle of violence and provide a measure of justice to the family members

JUSTICE FROM THE FAMILY MEMBER'S PERSPECTIVE

Accountability and justice have been central rallying cries for human rights movements around the world and among civil rights groups at home as well. During the last several decades, new campaigns, policies, standards, and institutions have emerged that use criminal law to enforce human rights and combat impunity. For the first time in history, former heads of State, including Slobodan Milošević (Serbia), Alberto Fujimori (Peru), Charles Taylor (Liberia), and José Efraín Ríos Montt (Guatemala), have faced criminal prosecution for human rights abuses. In groundbreaking decisions, international courts have struck down amnesty laws granting immunity to human rights perpetrators, ordered civil authorities to launch criminal investigations of atrocities after military courts had absolved suspects, and required new laws that criminalize torture and forced disappearance to facilitate criminal prosecutions of those responsible for such abuses.

While criminal punishment is central to the human rights movement's efforts to address repression and violence, justice for the victims and their families requires more than jail time. International law also provides victims with the right to "adequate, effective and prompt reparation" in proportion "to the gravity of the violations and the harm suffered."¹¹³ Ultimately, "reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed."¹¹⁴ For serious violations of the right to life and personal integrity, it is impossible to "wipe away" the impacts and fully restore the victims' rights. In cases involving torture, killings, and forced disappearances, international courts have held that justice requires monetary compensation, medical and psychological care, educational scholarships, the construction of monuments and memorials to honor the memory of the victims, and acknowledgement of wrongdoing and apologies from state officials.¹¹⁵

This expansive, holistic view of justice is also reflected in the views of crime victims. In 2013, the first survey of California crime victims and survivors found that victims of violent crime are, compared to other groups, more likely to be low-income, young (under 30), and Latino or African American and that the majority of California crime victims overwhelmingly "prefer[red] investments in mental health and drug treatments by a three-to-one margin over incarceration" for perpetrators.¹¹⁶ In response to the human disaster created by mass incarceration—the United States has less than 5% of the world's population and almost 25% of the world's prisoners—political leaders have begun to respond to this call for more investment in services and support.¹¹⁷

Criminal Justice

Most family members expressed an expectation and desire for the traditional justice system to hold the person responsible for the murder accountable. There was considerable range in the justice views expressed, however. One family member interviewed, for example, was focused more on a spiritual than criminal reckoning saying, "I'm not gung-ho on [the idea of getting somebody convicted] because I feel like—I'm speaking on a higher level, God-wise. [The killer is] going [to] pay for it. Whether he goes to jail or not, he's going to pay for it in a major way." A few family members expressed concern about further re-victimization if and when a prosecution moved forward, as in this comment, "I'm more scared of going to court.... A lot of guys nowadays that get convicted of murder, they're doing this whole taunting-the-family type thing in court. I'm not going to be able to deal with that. I'm scared I'm going to kill somebody if that happens."

A number of family members, though, viewed imprisonment as appropriate punishment. One mother expressed her understanding of justice for her son:

[My son] is just another statistic. I want justice for him. I want this person to be arrested and charged for my son's murder and make him do his time.... Justice is where I can look [the murderer] in his face and say, 'Do your time. You killed my son.' Justice means that [my grandson] can grow up and say, 'Well, my father's killer is behind bars.'

A father said, "I would hope the individual or individuals would be held accountable, because I feel like they're a danger to others on the streets." And a mother echoed this view, calling on Oakland law enforcement to "[f]ind the murderers. Find the killers. That is what I wish they would have done. That is the main thing. Get them off the streets, because they are probably doing it again, and again, and again. Get them off the streets and lock them up forever." Yet another mother put it this way, "It's very hard because I just feel like this little boy is going to hurt somebody else. I don't want to see another mother go through what I'm going through, not even his mother." Still another mother tied law enforcement's failure to solve murders to the prevalence of violence in Oakland saying, "The [police] are letting the community solve the killings. That is what they are doing. They are not solving them, because they know [the murderer] is going to get shot, going to get killed by somebody else."

Behind the call for prosecution was also a desire for the perpetrators to be constantly reminded of the consequences of their actions. "I want them to serve their time, and I want them to have to think about what they did for the rest of their lives and how many lives they've affected," explained one mother when asked about the meaning of justice. Another mother explained that the judge should "decide what is going to happen, and while [my son] is six feet under, [the murderers] should hear [my son]'s name every single day of their life. That's justice for me."

Several family members, however, expressed doubts that the criminal justice system would achieve the justice and accountability they sought. Some based their doubts on their view that the criminal justice system was racist and discriminatory. "I'm at a loss

on what real justice is at this time when I look at Eric Garner, when I look at Mike Brown [both black men killed by police with impunity] when I look at some of these things that have transpired," one parent said. "It makes me question, you know, what is justice and are we going to get justice...?"

Others believed that prison could not provide justice and argued that offenders needed education and counseling rather than incarceration. One mother rejected prison because "jail ain't solving nothing. My son is still gone. I'm going to have to pay for them in jail. I am paying for some boy to live his life in jail, and he done killed my son."

Another mother whose son had been killed and who herself worked in a prison, expressed her thoughts about incarceration this way:

In my utopia world, [offenders] would have to go through one of the many programs that I know is effective in helping people who cause harm gain empathy and accountability for the harm, and heal from their own harm. Because I have not met anybody—and this is my 33rd year working in the [prison] system—I have not met anybody who's caused harm who had no harm [done to him].... That opportunity to heal, should supersede punishment.

Another believed that incarceration, in general, was not the answer: "I would like for them to stop locking these people up and not getting them the proper help that they need. This is what they need. They need help. Anybody that would get up at 10:00 in the morning and kills two people in broad daylight and don't care about it, something's wrong [with his head]."

Several victim service providers who work closely with family members voiced similar views and challenged the accepted wisdom that an arrest brings healing. A victim rights advocate, for example, said, "The criminal justice system, even if it performs perfectly in accordance with the best victims' rights ... can't adequately address the loss of a loved one by violence." And a social worker commented:

There's this belief that, if they catch the perpetrator, the responsible party, I'll feel better. That's not true.... Part of my working with families is to help them understand that, even if they do know, it's not going to give them the satisfaction and the sense of relief that they think it is. I can say that honestly to them because I can tell them the stories of people who finally, the responsible party was caught, and their heart still had a hole in it that they had to learn to live with.

Private Justice

Oakland violence prevention policy focuses on retaliatory violence as a primary cause of murder in Oakland. A study of crime in Oakland found that the majority of Oakland homicides “were the result of personal rivalries....”¹¹⁸ Family members generally did not see “street justice,” “private justice,” or retaliation as an option, and they were aware that retaliatory violence was a source of violence in Oakland.

Only one family member embraced “street justice” as a remedy for his son’s murder saying, “For me, [my son’s murder] is solved. I know who murdered my son and I know the guy is dead. He was murdered. I’m glad, because he’s dead. I’m not sorry for saying that.”

A more common view among family members was to fear retaliatory violence. One mother, for example, said she feared that a surviving son would take justice into his own hands after his brother was murdered:

My oldest son had never been really involved in gangs and street stuff but was around it and knows who the players are and everything like that. The availability of weapons is real. That coupled with the loss and the pain and the guilt of not being able to protect his brother, being able to quote-un-quote, “save his brother.”... Although, we never—he never spoke openly about it, I knew that’s what he was thinking.

Another mother viewed private justice as the easy way out for the perpetrator:

I never, ever wanted whoever did what they did for the same to happen to them. I just want them to be—I want them to be brought to justice. I want them to serve their time and I want them to have to think about what they did for the rest of their lives and how many lives they’ve affected and taking these two [the victims] from us. Not only did they take them away from us, I mean, they’ve affected so many other people’s lives. Nobody has that right. Nobody has that right. They just need to—they need to be held accountable. We need to have that closure, and I think that that’s fair. They don’t need to be killed, or anything like that, because that, to me, that’s easy.

Several community-based social workers connected the risk of retaliatory violence to the police’s failure to arrest perpetrators. One government official summarized the logic of some in Oakland as: “Vengeance must be mine because government won’t do it.” A therapist and program director for a community-based organization believed that the failure to solve murders “does leave things up for assumption” and “most oftentimes the first thing you are going to go to if an individual from a certain group was killed is, ‘Oh, their rivals killed them.’” Another community-based advocate held a view of street justice shared by many of her peers working in Oakland: “[W]hen young men and women can’t get any real justice in the court system, I believe that they really do the street justice, but either way, it still hurts. It is still hurting families.... Street justice does not help anybody.”

Victim-Centered Justice

Several family members viewed legal accountability—the criminal investigation and prosecution of those responsible for murder—as just one element of justice; another critical element of justice, they believed, was support for the family members. “Justice is not served until crime victims are,” stated one family member. “[When victims’ families] are left behind hurting and abandoned, justice is not served. You cannot leave out those people who are hurting and abandoned.”

Another mother held a similar view: "Justice means that I would be at ease. I would be okay with moving forward, and not having a heart full of hatred against the folks who I think done it." One family member of the victims of a double homicide explained why she believed justice could not be served without assisting the victims:

Just put the victims first and try with all your might to try to solve these cases and give the victims some kind of closure. Just for the victims, not the criminals. True justice is for the victims... I was treated like I was a criminal. Just show more compassion for the victims. More compassion. Give more support. Offer counseling for kids if kids are involved. Just take that burden off our back. If we trying to get help for our kids, just offer free counseling for as long as they need it... Just give the victim as much support as possible, because we need it.

According to one social worker, many crime victims living in neighborhoods with high arrest rates distinguish justice for themselves from outcomes for the perpetrator:

[These crime victims] want more investment in things like mental health support, housing, prevention efforts, treatment, recovery services, which is a huge component to helping victims heal, and just more services and more resources to organizations within these communities that are serving crime victims....

Far too often, we see the criminal justice system and with law enforcement, the local D.A.'s office, the prosecutors, we see that the need to solve the case is more important than the need to help this family recover from this crime.

When asked about justice, several family members emphasized the importance of honoring the memory of the victims. One mother explained, "[The victims of unsolved murders,] those young men deserve to be recognized and honored in a way until, maybe until the person is caught. Even if they're not caught, I still

want to keep it fresh on people's minds that young black men who had a chance to be somebody, their lives were taken too short." Another mother echoed this perspective, "I look for more ways to keep [my son]'s name alive. He was a person. He didn't deserve to die and he's loved." Community-based service providers suggested that city-elected leaders or law enforcement acknowledge the family's loss by, for example, sending a card to the family members on the anniversary of the homicide.

One victim rights' advocate explained the importance of public remembering:

The survivors that I work with and know the best, they need us to remember, and they need their community to remember more on a daily basis and not in an unnamed way. What I mean by that is, in homicide cases, people stop saying the name of the loved one. It's just astounding to me. If you actually do finally ask someone, 'How are you? How old would Tommy have been this year?' and you actually say, 'Tommy,' because that's the name of the deceased. That moment when they get to hear their loved one's name again, it's this really concrete thing that we remember.

Several family members had deeply personal and intimate ways of keeping the victim close and present. They carried their ashes or locks of hair with them to work, to visit family, and to other places the victim would have enjoyed. They shared ashes with loved ones and the victim's friends, and they hung large pictures of the victim in their homes.

The family members interviewed for this report called for measures of justice that address the different effects of impunity on victims' family members and society and break the cycle of violence. While most wanted authorities to prosecute the person responsible for the murder, they also recognized that justice would not be achieved without the restoration of the family member's dignity and well-being and a public recognition of the victim's value in society.

CONCLUSIONS AND RECOMMENDATIONS

This report used a human rights framework to draw attention to the underexamined impacts of impunity on family members of the victims of unsolved murders, and through interviews it offers insights into experiences of family members living with impunity. The concept of impunity offers a way to understand the interaction of multiple factors—lackluster police responsiveness and often disrespectful and discriminatory treatment, checkered availability of services and restrictions on who can take advantage of them, a cramped approach to justice, and an enduring cycle of violence—that characterize the lived experience of family members. Here, we focus on the conclusions we reached regarding how law enforcement discharges its duty to investigate, how family members interpret and experience law enforcement’s failure to solve the murder, what assistance and support is available to family members, and how family members understand justice in the context of a decades-long murder epidemic.

Mistrust and the Investigation

In her book *Ghettoside*, Jill Levoy examines the murder epidemic during the 1990s in South Central Los Angeles and concludes that:

*where the criminal justice system fails to respond vigorously to violent injury and death, homicide becomes endemic. African Americans have suffered from just such a lack of effective criminal justice, and this, more than anything, is the reason for the nation’s long-standing plague of black homicides.*¹¹⁹

Many attribute Oakland’s low arrest rates in cases involving African American victims to the community’s reluctance to cooperate with police investigations out of fear of reprisal or distrust of the investigators.¹²⁰ This report identifies specific law enforcement behaviors and laws that foster what scholars call “legal estrangement.”¹²¹ Many people in poor communities of color, especially African Americans, view the police as “illegitimate, unresponsive, and ill-equipped to ensure public safety” because of a history of structural marginalization and exclusion.¹²²

Our research indicates that law enforcement’s treatment of family members at critical moments—during death notification, at the crime scene, and during the investigation—often generated mistrust, frustration, and stigma. The vast majority of family members did not receive official notification about the death of their loved ones, which led to confusion and contributed to distrust of law enforcement. At the crime scene, family members encountered police who were ill-equipped to address their grief and trauma. During the investigation, the vast majority of the family members communicated with detectives at the beginning of the investigation and had no contact with the investigators for extended periods during the investigation. Most family members rarely, if ever, received updates about the investigation.

Law enforcement did not prioritize the needs of family members, disregarded their trauma, and failed to create the conditions for effective cooperation with family members and witnesses. Disregard for family members’ trauma is apparent in the views and attitudes of law enforcement, as described by family members, but also by the Oakland Police Department’s lack of relevant policies. The OPD does not, for example, have protocols for officially notifying families of their loved one’s death, interacting with family members at the crime scene, or communicating with family members during the

investigation. Information about the progress of the investigation into their loved one's homicide is like food for family members. They are either starved or overfed by investigators. The OPD's approach to communication varied wildly. At times, investigators did not return phone calls. Family members also described investigators who provided information about the suspects with seeming disregard for the emotional impact this information might have on families or the risk it would spur retaliatory violence. Based on family members' experiences with law enforcement, they expressed a lack of confidence in the thoroughness of police investigations and questioned investigators' commitment to solving the crimes.

Despite their frustration, family members articulated an intense interest in supporting the investigation and were aware of the difficulties investigators faced. Many family members had conducted a parallel investigation to identify witnesses themselves and provide police with possible leads—efforts sometimes undertaken at their peril. Scant support was available for family relocation in the wake of the murder, and many family members found police unresponsive to their safety concerns.

While our research found community distrust in law enforcement, it is unlikely that community distrust is the sole or even the primary driver of OPD's failure to make arrests in 60% of Oakland murders involving black victims over the last decade and the dramatic fluctuations year to year in Oakland clearance rates (see Figure 4). Other factors, such as the victims' characteristics and the police access to and use of resources also contribute to these low rates. More than 40% of the Oakland's general budget—a higher percentage than in many other cities—goes to the police department.¹²³ Nevertheless, Oakland chronically understaffs its homicide section. In 2013, each of Oakland's homicide investigators handled a caseload of more than 20 homicides.¹²⁴ According to experts, a caseload should not exceed four to six homicides per investigator per year.¹²⁵

In 2014, the Oakland Police Department entered into a cooperation agreement with the Federal Bureau of Investigation (FBI) to support OPD's efforts to investigate active and cold case homicides by facilitating the pursuit of witnesses across state lines and the deployment of specialized FBI resources.¹²⁶ From 2014 to 2017, OPD reported significantly higher clearance rates in homicide cases.¹²⁷ In 2017, OPD reported that each lead investigator handled an average caseload of 6.9 cases (this figure, though, does not account for over 2,000 cold cases).¹²⁸ According to OPD's 2017 annual report, OPD's homicide section was not fully staffed¹²⁹ and according to interviews with city officials, OPD has not requested additional funding from the city for homicide investigations. In 2018, Oakland clearance rates fell dramatically.

Furthermore, several family members and community-based service providers described intimidation and fear of reprisal as a significant problem in Oakland and noted the connection between the reluctance of witnesses to come forward and the unwillingness or inability of law enforcement to provide protection. Alameda County receives "substantially less money" from California's Witness Protection Program "than counties with similar, and sometimes smaller, numbers of murders."¹³⁰ In 2016, for instance, Alameda County, which has a population of approximately 1.7 million, allocated less than \$30,000 to witness protection compared to the more than \$250,000 allocated by San Francisco City and County, which has a population of approximately 880,000.¹³¹ Oakland has been sued for failing to protect witnesses.¹³²

Discrimination and Victim Status

The evidence of racial bias in the U.S. policing and courts system is overwhelming. Multiple studies, for example, have demonstrated that black men are arrested, charged, and convicted of drug crimes at much higher rates than whites although both races use and sell drugs at the same rate.¹³³ In Oakland, a recent

study found that 60% of police stops were of black residents although approximately 24% of the city's population is black.¹³⁴ After a stop by OPD, black men were also far more likely to be arrested than whites.¹³⁵

This racialized system of justice has consequences for who qualifies as a crime victim and is eligible for government support. Federal and California law makes a distinction between innocent victims who are deserving of assistance and culpable victims who are not. While family members of victims in both categories experience the impacts of homicide, they do not have equal access to assistance. Victims of crime who law enforcement determines played a role in the murder, who are incarcerated or on probation, or who do not cooperate with police are denied access to government assistance and support.

It is not clear what information or criteria police use to determine which crime victims deserve government assistance, opening the door to bias and prejudice. Some of the same dynamics that render African Americans vulnerable to racial profiling—mass criminalization, racial segregation, stereotypes about black criminality, group vulnerability—converge to deny “innocent victim” status to black victims of homicide and their families.¹³⁶

Laws that bar crime victims with criminal records from receiving state financial assistance to access services disproportionately impact black crime victims.¹³⁷ On average, 19% of claims filed by family members of Oakland homicide victims each year were denied. The Oakland neighborhoods most affected by violence are also the neighborhoods where family members who are not eligible for assistance are most likely to live. In 2017, over 70% of adults under the supervision of the Probation Department in Alameda County were African American or Latino men.¹³⁸ The neighborhoods of East and West Oakland are home to a higher density of the formerly incarcerated than other areas of Alameda County.¹³⁹

This policy of exclusion runs counter to recent efforts in Oakland to identify those most likely to engage in violence and to offer them services to reduce the likelihood of criminal behavior. In 2012, the Ceasefire initiative became a central component of the city's violence-reduction strategy. A city staffer who helped develop Ceasefire described the program as being “mainly about showing ‘love and respect’ for people at risk of gun violence.”¹⁴⁰ The goal of Ceasefire is to reduce the cycle of violence by stopping retaliation through focused deterrence. Police, prosecutors, victims of crime, community leaders, and service providers meet with people who recently have been the suspect or a target of a shooting to offer them services and support, such as financial assistance, life coaching, job training, and relocation. Police focus enforcement operations on those individuals who refuse the support and continue to engage in criminal activity.¹⁴¹

Ceasefire is credited for a significant reduction in Oakland crime rates. There was, for example, a 46% reduction in homicides and a 49% reduction in nonfatal shootings between the inception of the program in 2012 and 2017.¹⁴² One study of shooting victims found that study participants who received services and support were 70% less likely to be arrested and 60% less likely to have any criminal involvement.¹⁴³

Gaps in Services

Research indicates that only a small fraction of crime victims—less than 10% according to one study of the United States—engage with formal victim service providers.¹⁴⁴ California state agencies report that approximately 17.5% of victims of violent crime and 85% of family members of homicide victims filed applications for financial assistance.¹⁴⁵ Most of the recipients of state of California financial assistance in Oakland are female and black, and 26% were below the age of 18 and 45% were between the ages of 18 and 39.

Family members interviewed for this report identified several barriers to engagement with victim support services: gatekeeping by law enforcement, knowledge of rights and services, timing of contact by service providers, and availability of appropriate services outside of Oakland, in addition to psychological factors, such as fear of retaliation, shame, and the effects of trauma.¹⁴⁶ Our research found that most family members were unaware of their rights as crime victims. Most had received some form of state support, typically for funeral expenses; however, the support and assistance available did not address the complex, long-term effects of the homicide. Eligibility requirements exclude some of the family members of homicide victims who could most benefit from government assistance and the determination of claim eligibility lacks transparency and independence from law enforcement, which may further disadvantage the families of Oakland homicides. And lastly, appropriate and accessible rehabilitative services are not widely available.

Community-based service providers believed that the law enforcement's role in victim compensation may deter family members of unsolved murders from seeking support because many community members have been the target of law enforcement activities and abuse. Family members must apply for government financial assistance at the offices of Alameda County's District Attorney. Moreover, approval of access to government assistance is conditioned on cooperation with the police. This condition forces some family members to make the choice between government assistance with expenses and the risk of reprisal by others in the community for cooperation with law enforcement.

While the impact of impunity is long-term, the assistance available to family members is not. One study described the effects of unsolved homicides as a "chronic, never-ending disaster" for family members of the victims.¹⁴⁷ Under California law, government assistance is available only to family members who

apply within three years of the crime and covers expenses and services for a maximum of two years, as we've seen. Community-based service providers acknowledged that they focus outreach efforts in the moments immediately after the homicide. Family members who continue to experience the consequences of impunity for more than two years are, from the government's perspective, on their own.

Grieving While Living with Impunity

Numerous studies have examined the ongoing and devastating effects of homicide on the victim's loved ones.¹⁴⁸ Research has found that the sudden and violent nature of homicide engenders a mourning process that differs significantly from deaths caused by lengthy terminal illness, suicide, or accidents.¹⁴⁹ The circumstances of the murder, societal attitudes, and the result of the police investigation may complicate and extend a family member's recovery process.

African Americans, especially black youth, are at a disproportionate risk for exposure to violence and trauma.¹⁵⁰ Nationwide, African Americans, who comprise 12.3% of the population, are 52% of the nation's homicide victims.¹⁵¹ Homicide is the leading cause of death for African American men ages 10 to 34, and black youth are 7.8 times more likely than whites to experience the homicide of a loved one.¹⁵² On average, African Americans experience the homicide of two loved ones in their lifetime.¹⁵³

The experience of injustice is most familiar to black families. According to reporting by *The Washington Post*, police failed to make arrests in nearly 26,000 homicides committed in 52 of the largest U.S. cities between 2008 and 2018. "In more than 18,600 of those cases [(71.5 %)], the victim was black."¹⁵⁴ Clearance rates for homicides are lowest in places where the most blacks live and highest in the areas where the highest percentage of whites live.¹⁵⁵

Tanya Sharpe, one of the few researchers examining how sociocultural factors influence the coping strategies of African American families of homicide victims, has underscored the importance of understanding the “role of prejudice, discrimination, and racism in shaping the psychological well-being of African Americans.”¹⁵⁶ Research indicates that police, prosecutors, judges, service providers, and others who interact with family members of homicide victims of color often minimize their loss or stigmatize them, in effect disenfranchising their grief and placing them at risk of secondary victimization.¹⁵⁷

The majority of families of homicide victims in Oakland, especially if the victim is black, must contend with the devastating effects of homicide as well as ineffective investigations and lack of access to appropriate services. Stigma, blame, and lack of justice collide to disenfranchise the grief of many Oakland family members.

The majority of family members interviewed for this report had experienced the homicide or shooting of more than one family member. Most family members believed law enforcement’s prejudice and bias contributed to the police’s failure to solve the murder. The failure to solve these murders profoundly affected family members’ sense of safety and altered the life courses of many family members.

Many of the family members attributed the lack of official death notification and the treatment they received from police at the crime scene or during the investigation to their race or social status. Law enforcement disregarded their grief and denied their victimhood because the victims or their family members did not conform to the image of an innocent victim. Many family members said the police treated them like criminals and the victim like a number. The term “public service murders” was used to describe the family members’ perception of how the police view the deaths of young, black men in Oakland and why the police did not properly investigate them.¹⁵⁸ Some family members believed that police had the

perception that the victim was bad for the community and did not have a value to society.

Family members used different strategies to attempt to overcome or cope with the shame, guilt, stigma, and fear associated with the unsolved murder. They repeatedly called investigators, went to the police station, or created groups to help other families of homicide victims in an effort to ensure that police investigators would not ignore the death of their loved ones. Some family members withdrew from friends and family to grieve in isolation or in anonymity. Despite these coping strategies, many family members’ sense of security became a casualty of impunity. Some relocated to reclaim a sense of safety, but for others, gentrification had made relocation an impossibility.

Justice for Victims and their Families

Family members were asked to describe what justice should look like. Most of their responses emphasized the importance of prosecution and punishment for those responsible for the murder as a measure to prevent future violence. They attributed Oakland’s high rates of violence to law enforcement’s failure to solve the murders. One family member summarized this belief saying, “Go to Oakland, do your killing there, because you are going get away with it.”

Family members described “private justice” or “street justice” as a source of violence and fear in their lives. Some family members empathized with the perpetrators and their family and used the phrase “hurt people hurt people” to describe the cyclical nature of Oakland’s violence. Several community-based social workers connected the risk of retaliatory violence to low clearances rates. While programs like Ceasefire have tried to do some of the work of breaking the cycle of violence through social services, the reach of these efforts has been limited to a small group of individuals.

CONCLUSIONS AND RECOMMENDATIONS

Most family members ultimately hold a holistic view of justice, one that extends beyond the prosecution of perpetrators. Justice from the perspective of many family members should address their needs by providing support and assistance and by honoring the memory of the victims. During an interview for this report, a family member put it succinctly: when the victims' families "are left behind hurting and abandoned, justice is not served." Although several family members had deeply personal and intimate ways of honoring their loved one's memory, several expressed an interest in more public ways to keep their loved one's "name alive."

Recommendations based on our findings:

Investigation: Service providers (including public health professionals, mental health counselors, and social workers), criminal justice personnel, police, assistant district attorneys, judges, and court officials can have an enormous impact, both positive and negative, on families of homicide victims. The Oakland Police Department (OPD) lacks policies and protocols in several key areas that would help reduce uncertainty and mitigate secondary victimization of family members. To address these challenges, we recommend the following:

First, OPD should partner with community-based victim service providers and family members of homicide victims to develop an official death notification protocol. Best practices on notifying family members recommend that the notification take place in person, in private, and by an official who can provide complete and accurate information about what is known about the crime and guidance about what to expect from the criminal justice system during the investigative stage.

Second, OPD should review its policies for interacting with family members at the crime scene to balance protecting the safety and integrity of

the criminal investigation with a trauma-informed approach for addressing the emotional and practical needs of family members.

Third, OPD should develop a protocol for communication with family members that is trauma-informed, proactive, and anticipates long-term interactions with family members. When possible, OPD should allow family members of homicide victims access to examine cold-case files. Officials should also take steps to ensure that established procedures are followed.

Obstacles and Barriers to Victims' Rights and

Services: Based on our interviews and data, family members receive limited assistance to address income loss and expenses related to burial, mental health counseling, and relocation. Multiple barriers exist for the most vulnerable family members of homicide victims. To address these issues, we recommend the following:

First, victim services providers should expand access to support and services by conducting long-term and continuous outreach. Contact directly after the homicide may not be helpful for family members who are emotionally overwhelmed and are unable to respond to initial offers of support. Follow-up contact, even years after the homicide, may be necessary to foster trust and engagement with available services.

Second, access to services should be expanded to include individuals who are involved with the criminal justice system. According to research, these individuals are precisely the segment of the population most likely to be victimized and engage in subsequent violence.

Third, access to services should not depend on or be used as leverage to compel family members' cooperation with law enforcement.

Fourth, several family members identified opportunities to talk with other family members of homicide victims about their experiences, such as grieving circles, as a source of support. Government resources should be used to secure funding and expand these informal, grassroots initiatives.

The Effects of Impunity: With a backlog of thousands of unsolved murder cases, Oakland must address the needs of family members living in the shadow of impunity. Many family members reported that their recovery process is further complicated and prolonged by the stigma and blame associated with the death of young, black men in Oakland. Community-based victim service providers recognize these challenges but struggle to meet them with available resources. We recommend the following measures to address these challenges:

First, a thorough needs assessment that captures the priorities, needs, and concerns of this segment of Oakland's community is long overdue. The assessment should be conducted by an independent agency with the requisite time, resources, and skill set. The needs assessment should focus on the communities of East and West Oakland, which have the highest rates of violence and victimization, and it should incorporate the perspectives of community-based service providers and advocates.

Second, city officials, law enforcement, and victims' services providers should work collaboratively to dismantle the notion that only "innocent" victims deserve support. In determining the eligibility of family members of homicide victims for support, victim service providers should err on the side of inclusion.

Third, Oakland should develop adequate and effective programs to help relocate family members of homicide victims who are not witnesses but feel unsafe in their homes. Although family members may apply for financial assistance, the \$2,000 statutory cap for relocation expenses is insufficient to assist families attempting to resettle in the Bay Area. An effective program would provide resources but also help find housing and address the needs and vulnerabilities specific to individuals living in government-subsided housing.

Lastly, Oakland should develop wraparound services and long-term care to specifically address the complex needs of family members of homicide victims. It is critical that the services be made available through an independent agency, on an ongoing basis, and address the mental health needs of different communities, including the expression of trauma symptoms of African American families.

Victim-Centered Justice: The family members of homicide victims have a multifaceted understanding of justice. While solving the murder and incarcerating the perpetrators is a clear priority for most family members, many believed justice must also include support and assistance for the family members. Addressing the "justice gap" should not only involve more resources for law enforcement; it requires support services and public acknowledgment of the victims of violence in Oakland.

NOTES

- 1 2006 *Crime in the United States*, FBI Uniform Crime Reporting, <https://ucr.fbi.gov/crime-in-the-u.s/2006> (last visited Oct. 7, 2019).
- 2 OAKLAND POLICE DEP'T, END OF YEAR CRIME REPORT—CITYWIDE: 01 JAN.-31 DEC., 2018, <https://app.box.com/s/icb4flrew3pdwth9apirnae2x-79vs9c/file/376923787621> (last updated Jan. 3, 2019).
- 3 *Murder with Impunity: Unsolved Homicide Database*, WASH. POST [hereinafter *Unsolved Homicide Database*], https://www.washingtonpost.com/graphics/2018/investigations/unsolved-homicide-database/?city=oakland&utm_term=.19a90f8ce5fd (updated July 24, 2018) (select “Oakland, Calif.”).
- 4 *Id.*
- 5 *Id.*
- 6 *Solving Homicides: FBI Forms Unique Partnership with Oakland Police Department*, FBI (Nov. 9, 2015), <https://www.fbi.gov/news/stories/fbi-forms-unique-partnership-with-oakland-police-department>.
- 7 James M. Adcock, *Fixing America’s Cold Case Crisis*, THE CRIME REP. (Nov. 28, 2018), <https://thecrimereport.org/2018/11/28/fixing-americas-cold-case-crisis/> (citing THE CRIME REPORT, THE TOP 23 CITIES FOR HOMICIDES IN 2017 (2018), <https://thecrimereport.org/wp-content/uploads/2018/11/coldcase-table.pdf>).
- 8 See CALIFORNIANS FOR SAFETY & JUSTICE & CRIME SURVIVORS FOR SAFETY & JUSTICE, CALIFORNIA CRIME SURVIVORS SPEAK (2019), <https://allianceforsafetyandjustice.org/wp-content/uploads/2019/04/201904-CSJ-CA-Crime-Survivors-Speak.pdf>; ALLIANCE FOR SAFETY & JUSTICE, CRIME SURVIVORS SPEAK, <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.
- 9 CAL. GOV’T CODE, § 13956(c); CAL. PENAL CODE § 667.5(c); CAL. CODE REGS. tit. 2, § 649.4(b).
- 10 Alysia Santo, *The Victims Who Don’t Count*, MARSHALL PROJECT (Sept. 13, 2018), <https://www.themarshallproject.org/2018/09/13/the-victims-who-don-t-count>.
- 11 International human rights law is a set of norms and standards that governs the conduct of nations. This report uses “State” or “States” to refer to sovereign nations and “state” to refer to a federated state such as the state of California.
- 12 See e.g., El Hadji Guissé & Louis Joinet (Special Rapporteurs on the Impunity of Perpetrators of Violations of Human Rights), *Progress Report on the Question of the Impunity of Perpetrators of Human Rights Violations*, Prepared by Mr. Guissé and Mr. Joinet, Pursuant to Sub-Commission Resolution 1992/23, ¶ 16, U.N. Doc. E/CN.4/Sub.2/1993/6 (July 19, 1993).
- 13 See, e.g., Human Rights Comm., *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004) [hereinafter *General Comment No. 31*]; Velásquez Rodríguez v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 4 (July 29, 1988); Philip Alston (Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions), *Rep. On Civil and Political Rights, Including the Questions of Disappearances and Summary Executions*, ¶ 71, U.N. Doc. E/CN.4/2005/7 (Dec. 22, 2004), <https://undocs.org/E/CN.4/2005/7>.
- 14 *Jessica Gonzales v. United States*, Case 1490-05, Inter-Am. Comm’n H.R., Report No. 52/07, OEA/Ser.L./V/II.128, doc. 19 (2007).
- 15 Inter-Am. Comm’n on Human Rights, *Missing and Murdered Indigenous Women in British Columbia, Canada*, OEA/Ser.L/V/II, doc. 30/14 (2014), <https://www.oas.org/en/iachr/reports/pdfs/Indigenous-Women-BC-Canada-en.pdf>; Inter-Am. Comm’n on Human Rights, *Police Violence Against Afro-Descendants in the United States*, OEA/Ser.L/V/II, doc. 156 (2018), <http://www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf>.
- 16 International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (ratified by the United States of America on June 8, 1992) [hereinafter ICCPR]; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85 (ratified by the United States of America on Oct. 21, 1994); International Convention on the Elimination of All Forms of Racial

- Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195 (ratified by the United States of America on Oct. 21, 1994) [hereinafter ICERD]; Organization of American States, American Declaration of the Rights and Duties of Man, adopted by the Ninth International Conference of American States (1948), reprinted in Basic Documents pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 17 (1992) [hereinafter American Declaration].
- 17 Inter-Am. Comm'n on Human Rights, *Police Violence Against Afro-Descendants in the United States*, *supra* note 15; Human Rights Comm., *Concluding Observations on the Fourth Periodic Report of the United States of America*, U.N. Doc. CCPR/C/USA/CO/4 (Apr. 23, 2014), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG-1d%2FPPRiCAqhKb7yhsijKy20sgGcLSyqccX0g1n-nMFNOUOQBx7X%2BI55yhIwIkDk6CF0OAd-iqu2L8SNxDB4%2BVRPkf5gZFbTQO3y9dL-rUeUaTbS0RrNO7VHzbyxGDJ%2F>; Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Seventh and Ninth Periodic Reports of the United States of America*, U.N. Doc. CERD/C/USA/CO/7-9 (Sept. 25, 2014).
- 18 See e.g., ICCPR, *supra* note 16, at art. 26; ICERD, *supra* note 16, at art. 1; American Declaration, *supra* note 16; European Convention for the Protection of Human Rights and Fundamental Freedoms art. 14, Nov. 4, 1950, 213 U.N.T.S. 221; African Charter on Human and Peoples' Rights art. 2, June 27, 1981, 1520 U.N.T.S. 217.
- 19 See e.g., Human Rights Comm., *General Comment No. 18 on Non-Discrimination*, ¶ 7, U.N. Doc. HRI/GEN/1/Rev.7 (1989).
- 20 *Oakland, CA*, CENSUS REP., <https://censusreporter.org/profiles/16000US0653000-oakland-ca/> (last visited Dec. 18, 2019).
- 21 *Id.*
- 22 See JOINT CTR. FOR POLITICAL & ECON. STUDIES, PLACE MATTERS FOR HEALTH IN ALAMEDA COUNTY: ENSURING OPPORTUNITIES FOR GOOD HEALTH FOR ALL—A REPORT ON HEALTH INEQUITIES IN ALAMEDA COUNTY, CALIFORNIA (2012), <http://www.nationalcollaborative.org/wp-content/uploads/2016/02/PLACE-MATTERS-for-Health-in-Alameda-County-2.pdf>.
- 23 The life expectancy of residents of East and West Oakland is 10 to 15 years less than that of residents in the wealthier neighborhoods of Piedmont and the Oakland hills located just a few miles away.
- ALAMEDA CTY. PUB. HEALTH DEP'T, HEALTH INEQUITIES, <http://www.acphd.org/media/144727/lduc-part1.pdf>.
- 24 *Mapping Displacement and Gentrification in the San Francisco Bay Area*, URB. DISPLACEMENT PROJECT, <https://www.urbandisplacement.org/map/sf> (last visited Dec. 18, 2019).
- 25 Darwin BondGraham, *The East Bay's Changing Demographics*, E. BAY EXPRESS (Feb. 14, 2018), <https://www.eastbayexpress.com/oakland/the-east-bays-changing-demographics/Content?oid=13262928>.
- 26 G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Nov. 29, 1985) [hereinafter Principles of Justice for Crime Victims], <https://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx>.
- 27 *Case of Gomes Lund et al. (Guerrilha Do Araguaia) v. Brazil*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter.-Am. Ct. H.R. (ser. C) No. 219, ¶¶ 241-42 (Nov. 24, 2010), http://www.corteidh.or.cr/docs/casos/articulos/seriec_219_ing.pdf.
- 28 See G.A. Res. 60/147, sec. IX, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, U.N. Doc A/RES/60/147 (Dec. 16, 2005).
- 29 Comm. against Torture, *General Comment No. 3 (2012): Implementation of Article 14 by States Parties*, ¶ 11, U.N. Doc. CAT/C/GC/3 (Dec. 13, 2012) [hereinafter *General Comment No. 3*], <https://www.refworld.org/docid/5437cc274.html> (finding that rehabilitation “should be holistic and include medical and psychological care as well as legal and social services”); Rashida Manjoo (Special Rapporteur on Violence against Women, Its Causes and Consequences), *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences*, Rashida Manjoo, ¶ 86, U.N. Doc. A/HRC/20/16 (May 23, 2012), https://www.ohchr.org/Documents/Issues/Women/A.HRC.20.16_En.pdf.
- 30 GIFFORDS LAW CTR. ET AL., A CASE STUDY IN HOPE: LESSONS FROM OAKLAND'S REMARKABLE REDUCTION IN GUN VIOLENCE 38 (2019), <https://lawcenter.giffords.org/wp-content/uploads/2019/04/Giffords-Law-Center-A-Case-Study-in-Hope-Lessons-from-Oaklands-Remarkable-Reduction-in-Gun-Violence.pdf>.

- 31 OAKLAND POLICE DEP'T, END OF YEAR CRIME REPORT—CITYWIDE: OI JAN.-31 DEC., 2018, <https://app.box.com/s/icb4ffrew3pdwltlh9apirnae2x79vs9c/file/376923787621> (last updated Jan. 3, 2019).
- 32 ALAMEDA CTY. PUB. HEALTH DEP'T, VIOLENCE IN OAKLAND: A PUBLIC HEALTH CRISIS 10, 15 (2006).
- 33 An investigation by The Washington Post identified the race of the victim in 904 of the 946 homicides committed in Oakland between 2008 and 2017. According to the paper's report, there were 687 (76%) black, 147 (16%) Latino, 53 (6%) white, and 17 (2%) Asian victims. *Unsolved Homicide Database*, *supra* note 3.
- 34 ALAMEDA CTY. PUB. HEALTH DEP'T, *supra* note 32, at 15.
- 35 A homicide is most frequently solved when a suspect is arrested or charged. The FBI also allows police departments to report clearances by "exceptional means" such as when a suspect has died, witnesses decline to testify, or other circumstances. 2017 *Crime in the United States: Clearances*, FBI UNIFORM CRIME REPORTING, <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/clearances> (last visited Oct. 7, 2019).
- 36 See also *Unsolved Homicide Database*, *supra* note 3.
- 37 *Solving Homicides*, *supra* note 6.
- 38 Wesley Lowery et al., *Murder with Impunity: An Unequal Justice*, WASH. POST (July 25, 2018), <https://www.washingtonpost.com/graphics/2018/investigations/black-homicides-arrests/>.
- 39 See also *Unsolved Homicide Database*, *supra* note 3.
- 40 Wesley Lowery et al., *supra* note 38 (finding that across the 52 cities surveyed, "Black homicides in majority-black neighborhoods had a 45 percent arrest rate. White homicides in majority-black neighborhoods had a 59 percent arrest rate. The rate for black homicides in majority-white neighborhoods was 55 percent, while white homicides in majority-white neighborhoods had a 64 percent arrest rate.").
- 41 Bruce Gross, *Life Sentence: Co-Victims of Homicide*, 10 ANNALS AM. PSYCHOTHERAPY ASS'N 39 (2007); Dean Kilpatrick & Ronald Aciamo, *Mental Health Needs of Crime Victims: Epidemiology and Outcomes*, 16 J. TRAUMATIC STRESS 119 (2003), <https://www.ncbi.nlm.nih.gov/pubmed/12699200>.
- 42 Jennifer Connolly & Ronit Gordon, *Co-Victims of Homicide: A Systematic Review of the Literature*, 16 TRAUMA, VIOLENCE & ABUSE 494 (2015), <https://journals.sagepub.com/doi/10.1177/1524838014557285> (citing six articles Amick-McMullan, Kilpatrick, Smith, & Veronen, 1989; Asaro, Clements, Henry & McDonald, 2005; Burke, McDevitt-Murphy, & Neimeyer, 2010; Chery, Feldman Hertz, & Prothrow-Stith, 2005; Clements & Vigil, 2003).
- 43 Joah L. Williams & Alyssa A. Rheingold, *Barriers to Care and Service Satisfaction Following Homicide Loss: Associations With Mental Health Outcomes*, 39 DEATH STUD. 12, 16 (2015), <https://www.tandfonline.com/doi/full/10.1080/07481187.2013.846949?scroll=top&needAccess=true>.
- 44 Clementina Chery et al., *Homicide Survivors: Research and Practice Implications*, 29 AM. J. PREVENTIVE MED. 288 (2005).
- 45 CTR. FOR VICTIM RESEARCH, LOSING A LOVED ONE TO HOMICIDE: WHAT WE KNOW ABOUT HOMICIDE CO-VICTIMS FROM RESEARCH AND PRACTICE EVIDENCE 10 (2019), https://ncvc.dspacedirect.org/bitstream/item/1440/CVR%20Research%20Syntheses_Homicide%20Covictims_Report.pdf?sequence=1.
- 46 Connolly & Gordon, *supra* note 42, at 498 (citing numerous studies about the behavioral and developmental consequences of homicide for children).
- 47 Marilyn Peterson Armour, *Experiences of Covictims of Homicide: Implications for Research and Practice*, 3 TRAUMA, VIOLENCE & ABUSE 109 (2002), <https://journals.sagepub.com/doi/10.1177/15248380020032002>; Connolly & Gordon, *supra* note 42.
- 48 Robert DeYoung & Barbara Buzzi, *Ultimate Coping Strategies: The Differences Among Parents of Murdered or Abducted Long-Term Missing Children*, 47 OMEGA 343 (2003), <https://journals.sagepub.com/doi/pdf/10.2190/QYTT-GC1X-MNLX-6WLU>.
- 49 Chris Evans et al., *Families of Homicide Victims: Psychiatric Responses and Help-Seeking*, 75 PSYCHOL. & PSYCHOTHERAPY 65, 69 (2002), <https://onlinelibrary.wiley.com/doi/pdf/10.1348/147608302169553>.
- 50 Peterson Armour, *supra* note 47.
- 51 See Shirley A. Murphy et al., *Finding Meaning in a Child's Violent Death: A Five-Year Prospective Analysis of Parents' Personal Narratives and Empirical Data*, 27 DEATH STUD. 381, 397 tbl.3 (2003).
- 52 CTR. FOR VICTIM RESEARCH, *supra* note 45, at 10.

- 53 Paul B. Stretesky et al., *Sense-Making and Secondary Victimization Among Unsolved Homicide Co-Victims*, 38 J. CRIM. JUST. 880, 887 (2010).
- 54 *Id.*
- 55 CTR. FOR VICTIM RESEARCH, *supra* note 45, at 12.
- 56 Rosemary Masters et al., *Helping Families of Homicide Victims: A Multidimensional Approach*, 1 J. TRAUMATIC STRESS 109 (1988), <https://onlinelibrary.wiley.com/doi/abs/10.1002/jts.2490010108>.
- 57 Benjamin Goldsmith et al., *Elevated Rates of Prolonged Grief Disorder in African Americans*, 32 DEATH STUD. 352 (2008), <https://www.tandfonline.com/doi/abs/10.1080/07481180801929012>.
- 58 Jocelyn R. Smith & Desmond U. Patton, *Posttraumatic Stress Symptoms in Context: Examining Trauma Responses to Violent Exposures and Homicide Death Among Black Males in Urban Neighborhoods*, 86 AM. J. ORTHOPSYCHIATRY 212 (2016). Some studies suggest that African Americans are at a higher risk of prolonged grief (which is characterized by grief that persists in time and intensity beyond the cultural or religious norm) and PTSD. Goldsmith et al., *supra* note 57, at 360 (finding that “African Americans were found to have a 2.5 fold increased risk of [Prolonged Grief Disorder (PGD)] as compared with [w]hites ... [which] suggest[s] that bereaved African Americans represent a high-risk group for the development of PGD.”); Andrea L. Roberts et al., *Race/Ethnic Differences in Exposure to Traumatic Events, Development of Post-Traumatic Stress Disorder, and Treatment-Seeking for Post-Traumatic Stress Disorder in the United States*, 41 PSYCHOL. MED. 71 (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3097040/>.
- 59 Press Release, U.S. Dep’t of Justice, Department of Justice Awards over \$2.3 Billion in Grants to Assist Victims Nationwide (Oct. 29, 2019), <https://www.justice.gov/opa/pr/departments-justice-awards-over-23-billion-grants-assist-victims-nationwide>; Press Release, U.S. Dep’t of Justice, Justice Department Announces \$3.4 Billion in Grants to Aid Crime Victims Nationwide (Aug. 9, 2018), <https://www.justice.gov/opa/pr/justice-department-announces-34-billion-grants-aid-crime-victims-nationwide>; U.S. Dep’t of Justice, Office of Justice Programs & Office for Victims of Crime, OVC FY 2015 VOCA Victim Assistance Formula (May 19, 2015), <https://perma.cc/UU2V-VR4N>.
- 60 The funding that supports victim services for family survivors of murder in Oakland comes through three main streams. The largest share of these funds comes from the federal Victims of Crime Act Fund (VOCA), which is administered and distributed through two state agencies: California Office of Emergency Services (CalOES) and California Victim Compensation Board (CalVCB). In Oakland, Victim-Witness Assistance Division (VWAD) and the Alameda County Family Justice Center (a division of the Alameda County District Attorney’s Office) are the only agencies that receive funding through these sources. At the state-wide level, the Victim Services Unit of the California Department of Justice (VSU) and CalVCB both receive federal funding. The second largest pot of funds comes from the Oakland Public Safety and Services Violence Prevention Act (Measure Z), passed in 2014. Prior to the passage of Measure Z, between 2004 and 2014, the Violence Prevention and Public Safety Act of 2004 (Measure Y) funded victim services for the family members of homicide victims. Measure Z funds the work of Oakland Unite (OU), Youth Alive (YA), Catholic Charities of the East Bay (CCEB), and Oakland California Youth Outreach (OCYO). Private grants and donations, and crowdsourced funds appear to supply the smallest share of funding for victim services in Oakland; and this category of funds supports community-based organizations and informal service providers.
- 61 The Crisis Response and Support Network (CRSN) is a subsidiary to the Shooting and Homicide Response and Support Network (SHRSN), a program of Oakland Unite, the City of Oakland’s violence prevention agency funded by Measure Z and housed under the Department of Human Services. The SHRSN’s aim, “in partnership with Street Outreach, [is to] help break the cycle of violence that can follow a shooting or homicide by addressing the basic and social-emotional needs of victims and/or their families, and by providing alternatives to retaliatory violence.” *Violent Incident & Crisis Response*, OAKLAND UNITE, <http://oaklandunite.org/violent-incident-crisis-response/> (last visited Feb. 27, 2018).
- 62 *Crisis Response Services*, CATHOLIC CHARITIES OF THE E. BAY, <http://www.cceb.org/our-services/oakland-crisis-response-and-support-network/> (last visited Feb. 28, 2018).
- 63 According to California law, crime victims may be eligible for reimbursements of up to \$70,000 for dental care; \$7,500 in funeral expenses; \$70,000 in income loss; \$70,000 in medical care; \$10,000 in mental health care; \$1,000 for crime scene clean-up; \$1,000 for residential security; and \$2,000 for expenses related to relocation. CAL. GOV’T CODE § 13957.5(b).

- 64 CAL. GOV'T CODE § 13955(c).
- 65 CAL. GOV'T CODE § 13951(a-g).
- 66 California law permits officials to consider the following factor in determining the “involvement” of victims or their family members: 1) whether the victim initiated, provoked, or aggravated the qualifying crime; 2) whether the qualifying crime was “a reasonably foreseeable consequence of the conduct of the victim or derivative victim;” and 3) “whether the victim or derivative victim was committing a crime that could be charged as a felony and reasonably lead to him or her being victimized.” CAL. GOV'T. CODE § 13956(a)(1)(A)-(C).
- 67 CAL. GOV'T CODE § 13956(c); CAL. PENAL CODE § 667.5(c) (identifying qualifying violent felonies as including murder, voluntary manslaughter, mayhem, rape and other sexual assaults, robbery, arson, attempted murder, kidnapping, assault with intent to commit a felony, carjacking, and first-degree burglary); CAL. CODE REGS. tit. 2, § 649.4(b).
- 68 We did not ask the survivor to recount details of the homicide to mitigate the trauma associated with recounting the experiences of the homicide.
- 69 CAL. GOV'T CODE §§ 6250-6255.
- 70 Alameda County Behavioral Health Care Services, California Department of Finance, California Victims Compensation Board, City of Oakland Housing Authority, Oakland Police Department, Victim-Witness Assistance Division of the Alameda District Attorney's Office, Victim Services Unit of the California Department of Justice, Behavior Health Department of the Oakland Unified School District, and Oakland Unite (a division of the City of Oakland's Department of Human Services).
- 71 *General Comment No. 31, supra* note 13.
- 72 See, e.g., Inter-Am. Comm'n on Human Rights, *The Right to Truth in the Americas*, OEA/Ser.L/V/II.152, doc. 2 (2014), <http://www.oas.org/en/iachr/reports/pdfs/Right-to-Truth-en.pdf>.
- 73 Paniagua Morales v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 37, ¶ 173 (Mar. 8, 1998).
- 74 See Principles of Justice for Crime Victims, *supra* note 26.
- 75 See *id.*
- 76 Güle. v. Turkey, App. No. 54/1997/838/1044, ¶¶ 82–83 (Eur. Ct. H.R., July 27, 1998), <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58207>. See also 19 Merchants v. Colombia, Inter-Am. Ct. H.R. (ser. C) No. 109, ¶ 263 (July 5, 2004).
- 77 Oğur v Turkey, App. No. 21594/93, ¶¶ 92–93 (Eur. Ct. H.R. May 20, 1999), <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58251>.
- 78 Orhan v. Turkey, App. No. 25656/94, ¶¶ 346–48 (Eur. Ct. H.R. June 18, 2002), <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-60509>.
- 79 *About Victims' Rights*, VICTIM L., <https://victimlaw.org/victimlaw/pages/victimsRight.jsp> (last visited Sept. 13, 2019).
- 80 CAL. CONST. art. I, § 28(b)(1). Other rights afforded by California law, such as the right to restitution, are only enforceable if there is a prosecution. For example, the right to be notified of public court proceedings is enforceable if there are hearings, and victims can vindicate their right to restitution if the defendant is found guilty of the crime committed against the victim.
- 81 *Procedural Justice and Police Legitimacy*, CITY OF OAKLAND, <https://www.oaklandca.gov/resources/procedural-justice-and-police-legitimacy> (last visited Sept. 12, 2019).
- 82 DANIELA GILBERT ET AL., CAL. P'SHIP FOR SAFE COMMUNITIES, PROCEDURAL JUSTICE AND POLICE LEGITIMACY: USING TRAINING AS A FOUNDATION FOR STRENGTHENING COMMUNITY-POLICE RELATIONSHIPS 2 (2015), <https://www.bja.gov/bwc/pdfs/Procedural-Justice-and-Police-Legitimacy-Paper-CPSC-Feb-2015.pdf>.
- 83 *Law Enforcement and the Communities They Serve: Supporting Collective Healing in the Wake of Harm*, INT'L ASS'N OF CHIEFS OF POLICE, <https://www.theiacp.org/projects/law-enforcement-and-the-communities-they-serve-supporting-collective-healing-in-the-wake> (last visited Sept. 12, 2019).
- 84 Mark D. Reed et al., *Tense Relationships Between Homicide Co-Victims and Detectives in the Wake of Murder*, DEVIANT BEHAV. 1 (2019), <https://www.tandfonline.com/doi/full/10.1080/01639625.2019.1574256>.
- 85 Laurence Miller, *Death Notifications for Families of Homicide Victims: Healing Dimensions of a Complex Process*, 57 OMEGA 367 (2008), <https://www.ncbi.nlm.nih.gov/pubmed/19294826>.
- 86 See, e.g., *Survivors of Homicide Victims*, PARENTS OF MURDERED CHILD., <https://www.pomc.com/survivors.html> (last visited Sept. 13, 2019) (section on proper death notification).

- 87 Mark D. Reed et al., *supra* note 84.
- 88 JESSE JANNETTA ET AL., URBAN INST., RESPONDING TO HOMICIDE AND SHOOTING SCENES: A REVIEW OF PROCEDURAL JUSTICE PRACTICE IN THE US 3 (2019).
- 89 Mark D. Reed et al., *supra* note 84.
- 90 *Id.* (citing Sarah Goodrum, ‘Victims’ Rights, Victims’ Expectations, and Law Enforcement Workers’ Constraints in Cases of Murder, 32 L. & SOC. INQUIRY 725 (2007), https://www.jstor.org/stable/20108723?seq=1#page_scan_tab_contents).
- 91 See *General Comment No. 3*, *supra* note 29, ¶¶ 11-14; Gomes Lund (Guerrilha do Araguaia) v. Brazil, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 219, ¶ 267 (Nov. 24, 2010); Principles of Justice for Crime Victims, *supra* note 26, ¶ 8; G.A. Res. 60/147, *supra* note 28, ¶ 21.
- 92 DINAH SHELTON, REMEDIES IN INTERNATIONAL HUMAN RIGHTS 275 (2005).
- 93 *General Comment No. 3*, *supra* note 29, ¶¶ 11-14.
- 94 GIFFORDS LAW CTR. ET AL., *supra* note 30, at 37.
- 95 *Violent Incident & Crisis Response*, *supra* note 61.
- 96 CAL. PENAL CODE § 679.026(c)(1). However, many of the rights afforded by California law are only enforceable if there is a prosecution. CAL. CONST. art. I, § 28(b)(1).
- 97 CAL. PENAL CODE § 679.026(c)(1).
- 98 CAL. GOV’T CODE § 13956(c); CAL. PENAL CODE § 667.5(c); CAL. CODE REGS. tit. 2, § 649.4(b).
- 99 Cooperation with law enforcement in this context “includes, but is not limited to: (1) reporting the qualifying crime; (2) completely and truthfully responding to requests for information in a timely manner; (3) cooperating with identifying and apprehending any person involved in the qualifying crime; and (4) testifying in all proceedings, including restitution proceedings, as required.” CAL. CODE REGS. tit. 2, § 649.59(e)-(g).
- 100 *Involvement* is not an absolute bar to compensation, but CalVCB may deny a crime victim’s application for compensation if law enforcement determines that the survivor or the victim was involved as a result of current or past “gang activity,” illegal drug-related activity, or mutual combat. CAL. CODE REGS. tit. 2, §§ 649.53, 649.54, 649.55. See also CAL. GOV’T CODE § 13956(a)(1)(A)-(C) (carving out exceptions for the grounds for denial for victims “involved” in sexual assault, trafficking, or domestic violence).
- 101 Rodriguez Vera (the Disappeared from the Palace of Justice) v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶¶ 534, 538 (Nov. 14, 2014).
- 102 Bámaca-Velásquez v. Guatemala, Reparation, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 91, ¶ 129 (Feb. 22, 2002); Blake v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 36, ¶¶ 113-14 (Jan. 24, 1998); Villagran-Morales (Street Children) v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 63, ¶ 174 (Nov. 19, 1999).
- 103 See Loayza-Tamayo v. Peru, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 53, ¶¶ 147-48 (Nov. 27, 1998); Tibi v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 114, ¶¶ 85-93 (Sept. 7, 2004).
- 104 Loayza-Tamayo v. Peru, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 53, ¶¶ 147-48 (Nov. 27, 1998).
- 105 See Cantoral-Benavides v. Peru, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 88, ¶ 60 (Dec. 3, 2001); Gutiérrez-Soler v. Colombia, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶¶ 87-88 (Sept. 12, 2005).
- 106 KENNETH J. DOKA, DISENFRANCHISED GRIEF: RECOGNIZING HIDDEN SORROW (1989).
- 107 According to several studies, “[t]he murder of criminals or perceived criminals [and] deaths due to gun-violence ... can fall outside prevailing norms for grieving and can cause families to experience disenfranchised grief.” David Baker et al., *Disenfranchised Grief and Families’ Experiences of Death After Police Contact in the United States*, OMEGA 1, 7 (2019), <https://journals.sagepub.com/doi/pdf/10.1177/0030222819846420> (citing Sandra J. Jones & Elizabeth Beck, *Disenfranchised Grief and Nonfinite Loss as Experienced by the Families of Death Row Inmates*, 54 OMEGA 281 (2007); Christine et al., *Bereavement Following Substance Misuse: A Disenfranchised Grief*, 72 OMEGA 283 (2016)).
- 108 The few studies that have sought to understand the experiences of family members in unsolved murder cases also document the uncertainty that haunts families who do not know who is responsible for the loved one’s death and the “often fraught” relationship they have with the police and prosecutors involved in the criminal investigation. Ashley Wellman & Marian Borg, *Envisioning Justice: The Complex Journey of Cold Case Homicide Survivors*, 33 VIOLENCE & VICTIMS 1102 (2018).

- 109 Kevin Fagan et al., *Oakland Reins in Its Rough 'Riders' / In a Tough Neighborhood, Four Cops Pushed the Limits While Ruling Their Beat with an Iron Fist*, S.F. GATE (Oct. 2, 2000), <https://www.sfgate.com/bayarea/article/Oakland-Reins-In-Its-Rough-Riders-In-a-tough-3237415.php>; Scott C. Johnson, *How a Dirty Police Force Gets Clean*, POLITICO (Mar./Apr. 2015), https://www.politico.com/magazine/story/2015/03/oakland-police-reform-115552_full.html?print; Laurel Wamsley, *Oakland to Pay 19-Year-Old Nearly \$1 Million in Police Scandal Settlement*, NPR (June 1, 2017), <https://www.npr.org/sections/thetwo-way/2017/06/01/531056653/oakland-to-pay-19-year-old-nearly-1-million-in-police-scandal-settlement>.
- 110 SPARQ Scientists Release Oakland Police Findings, STANFORD SPARQ (June 15, 2016), <https://sparq.stanford.edu/opd-reports>.
- 111 CTR. FOR VICTIM RESEARCH, *supra* note 45, at 12.
- 112 Mariëtte van Denderen et al., *Psychopathology Among Homicidally Bereaved Individuals: A Systematic Review*, 16 TRAUMA, VIOLENCE & ABUSE 70 (2015), <https://doi.org/10.1177/1524838013515757>.
- 113 G.A. Res. 60/147, *supra* note 28, ¶ 15.
- 114 The Factory at Chorzow (Ger. v. Pol.), 1928 P.C.I.J. (ser. A) No. 17, ¶ 125 (Sept. 13) (stating that “[t]he essential principle contained in the actual notion of an illegal act ... is that reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.”).
- 115 See, e.g., Cantoral-Benavides v. Peru, Reparations and Costs, Judgment, Inter-Am. Ct.H.R. (ser. C) No. 88 (Dec. 3, 2001); Bámaca-Velásquez v. Guatemala, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 91 (Feb. 22, 2002); Nineteen Tradesmen v. Colombia, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 109 (July 5, 2004); Gudiel Álvarez (“Diario Militar”) v. Guatemala, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 253 (Nov. 20, 2012).
- 116 CALIFORNIANS FOR SAFETY & JUSTICE, CALIFORNIA CRIME VICTIMS’ VOICES: FINDINGS FROM THE FIRST-EVER SURVEY OF CALIFORNIA CRIME VICTIMS AND SURVIVORS 5, https://www.courts.ca.gov/documents/BTB_XXII_IIIE_3.pdf.
- 117 See, e.g., Shannon Green, *We Can’t Have Meaningful Criminal Justice Reform Without Helping Victims and Offenders*, ORLANDO SENTINEL (June 14, 2019), <https://www.orlandosentinel.com/opinion/os-op-florida-criminal-justice-reform-crime-victims-20190614-jdbf7ujpzbbvbg4cnx6sibxmie-story.html>.
- 118 GIFFORDS LAW CTR. ET AL., *supra* note 30, at 37.
- 119 JILL LEOVY, GHETTOSIDE: A TRUE STORY OF MURDER IN AMERICA 8 (2015).
- 120 See Caitlin Esch, *Oakland’s Other Crime Problem: Unsolved Homicides*, KQED NEWS (Feb. 12, 2013), <https://www.kqed.org/news/88772/oaklands-other-homicide-crisis-unsolved-cases> (Oakland Police Captain says “that the Number One factor stopping investigators from solving homicides ... is a lack of cooperation from witnesses in the community.”); Libby Leyden, *FBI, ODP Joint Task Force Increases Homicide Cases Solved in Oakland*, OAKLANDNORTH (Oct. 1, 2015), <https://oaklandnorth.net/2015/10/01/fbi-opd-joint-task-force-increases-homicide-cases-solved-in-oakland> (Officer Johnna Watson, spokesperson for OPD, said, “I think one of the most important things in solving Oakland’s homicide cases is making the community feel comfortable to provide information and to have trust in the OPD.”).
- 121 Monica Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054 (2017), <https://www.yalelawjournal.org/essay/police-reform-and-the-dismantling-of-legal-estrangement>.
- 122 *Id.* at 2066 (citing David S. Kirk & Andrew V. Papachristos, *Cultural Mechanisms and the Persistence of Neighborhood Violence*, 116 AM. J. SOC. 1190, 1217 (2011)).
- 123 THE CTR. FOR POPULAR DEMOCRACY ET AL., FREEDOM TO THRIVE: REIMAGINING SAFETY & SECURITY IN OUR COMMUNITIES 64 (2017), <https://populardemocracy.org/sites/default/files/Freedom%20To%20Thrive%2C%20Higher%20Res%20Version.pdf>.
- 124 See Leyden, *supra* note 120.
- 125 POLICE EXEC. RESEARCH FORUM, PROMISING STRATEGIES FOR STRENGTHENING HOMICIDE INVESTIGATIONS 46 (2018), <https://www.bja.gov/Publications/promising-strategies-for-strengthening-homicide-investigations.pdf>.

- 126 See Press Release, Dep't of Justice, The Department of Justice Launches National Violence Reduction Network (Sept. 29, 2014), <https://www.justice.gov/opa/pr/departments-justice-launches-national-violence-reduction-network>; Kevin Johnson, *Feds Returning to Local Crime Fight*, USA TODAY (Sept. 28, 2015), <http://www.usatoday.com/story/news/nation/2015/09/28/crime-spikes-federal-action-yates/72924738/> (last visited Mar. 26, 2016); *Solving Homicides*, *supra* note 6 (describing how FBI supports police in Oakland). Between June and September of 2014, the FBI helped clear 10 of the 11 homicides and provided aid with gang-related homicides. See Memorandum from Sean Whent, to John A. Flores, Interim City Adm'r. 3, 11 (May 11, 2015), <https://assets.documentcloud.org/documents/2089149/fbi-opd-joint-workspace-in-the-police.pdf> (on FBI-OPD Joint Workspace in the Police Administration Building).
- 127 Clearance data is compiled by the FBI's Uniform Crime Reporting program which counts clearance of crimes committed in previous years as part of current-year statistics. In 2016, for example, OPD made arrests in 38.8% of homicides committed in 2016, but reported a clearance rate of 50.1% of homicides because arrests were made for murders committed in previous years. In 2017, investigators solved approximately 45% of the homicides committed that year, but reported a clearance rate of 71% because the police also made arrests in 18 homicides from previous years. 2017 OAKLAND POLICE DEP'T ANN. REP. 49, <https://www.documentcloud.org/documents/5691907-Oakland-Police-Department-Annual-Report-2017.html>. See also Da Lin, *FBI Steps in to Help Overworked Oakland Homicide Investigators*, CBS SF BAY AREA (Aug. 12, 2015), <https://sanfrancisco.cbslocal.com/2015/08/12/fbi-oakland-police-homicide-investigators-cold-case/> (2015 news report that OPD had 9 homicide investigators).
- 128 2017 OAKLAND POLICE DEP'T ANN. REP. 49.
- 129 *Id.*
- 130 Daniel Freed, *Witness Protection Is Unevenly Spread*, L.A. TIMES (Jan. 4, 2004), <http://articles.latimes.com/2004/jan/04/local/me-witness4>. In 2004, the director of the Alameda County District Attorney's Victim-Witness Assistance Division stated that the average witness protection payouts in Alameda County are "\$2,000 to \$3,000 per witness," though the county "often does not take advantage of the program" because "many witnesses dismiss the danger they face or are reluctant to leave Oakland." *Id.*
- 131 The California Witness Relocation and Assistance Program (CalWRAP) reimburses state and local agencies for the costs of providing witness protection services. *California Witness Relocation & Assistance Program*, ST. CAL. DOJ ATTY. GEN., <https://oag.ca.gov/witness-protection> (last visited Oct. 8, 2019). In 2016-2017, Alameda County requested \$17,763.91 from CalWRAP in reimbursements and the county provided \$10,017.23 in matching funds for witness protection. San Francisco County requested \$221,268.56 from CalWRAP in reimbursements and the county provided \$82,201.12 in matching funds for witness protection. 2016-17 CAL. ATTY. GEN. CAL. WITNESS RELOCATION & ASSISTANCE PROGRAM ANN. REP. 8, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/fy-16-17-calwrap-ar.pdf>.
- 132 Ali Winston, *The Carlos Nava Case May Be in Trouble*, E. BAY EXPRESS (Feb. 27, 2013), <http://www.eastbay-express.com/oakland/the-carlos-nava-case-may-be-in-trouble/Content?oid=3474982>.
- 133 ACLU, *THE WAR ON MARIJUANA IN BLACK AND WHITE* (2013), <https://www.aclu.org/report/report-war-marijuana-black-and-white?redirect=criminal-law-reform/war-marijuana-black-and-white>; *Criminal Justice Fact Sheet*, NAACP, <https://www.naacp.org/criminal-justice-fact-sheet/> (last visited Oct. 8, 2019); ELIZABETH HINTON ET AL., *AN UNJUST BURDEN: THE DISPARATE TREATMENT OF BLACK AMERICANS IN THE CRIMINAL JUSTICE SYSTEM* (2018), https://storage.googleapis.com/vera-web-assets/downloads/Publications/for-the-record-unjust-burden/legacy_downloads/for-the-record-unjust-burden-racial-disparities.pdf.
- 134 SPARQ Scientists Release Oakland Police Findings, *supra* note 110.
- 135 Rob Voigt et al., *Language from Police Body Camera Footage Shows Racial Disparities in Officer Respect*, 114 PNAS 6521 (2017), <http://www.pnas.org/content/early/2017/05/30/1702413114>.
- 136 See Devon W. Carbado, *Blue-on-Black Violence: A Provisional Model of Some of the Causes*, 104 GEO. L.J. 1479 (2016), <https://georgetownlawjournal.org/articles/216/blue-on-black-violence/pdf>.
- 137 Santo, *supra* note 10.
- 138 THERESA ZHEN & BRANDON GREENE, E. BAY CMTY. LAW CTR., *PAY OR PREY: HOW THE ALAMEDA COUNTY CRIMINAL JUSTICE SYSTEM EXTRACTS WEALTH FROM MARGINALIZED COMMUNITIES* 4 (2018), https://ebclc.org/wp-content/uploads/2018/10/EBCLC_CrimeJustice_WP_Fnl.pdf.

- 139 NEOLA CROSBY & LADONNA HARRIS, ALAMEDA CTY. PROB. DEP'T, ROAD TO RE-ENTRY: ALAMEDA COUNTY ADULT RE-ENTRY STRATEGIC PLAN 4, 6-7 (2014), <https://www.acgov.org/probation/documents/ReEntryStrategicPlan-BoardApproved3-11-14.pdf>.
- 140 Darwin BondGraham, *He Spent His Career Putting Gangs in Jail. A Radical Idea Changed Everything*, GUARDIAN (June 4, 2019), <https://www.theguardian.com/us-news/2019/jun/03/ersie-joyner-interview-oakland-police-ceasefire-gun-violence-prevention>.
- 141 DAVID MUHAMMAD, NAT'L INST. FOR CRIMINAL JUSTICE REFORM, OAKLAND'S SUCCESSFUL GUN VIOLENCE REDUCTION STRATEGY (2018), <http://nicjr.org/wp-content/uploads/2018/02/Oakland%E2%80%99s-Successful-Gun-Violence-Reduction-Strategy-NICJR-Jan-2018.pdf>.
- 142 *Id.* at 8.
- 143 Maria G. Becker et al., *Caught in the Crossfire: The Effects of a Peer-Based Intervention Program for Violently Injured Youth*, 34 J. ADOLESCENT HEALTH 177 (2004), <http://www.ncbi.nlm.nih.gov/pubmed/14967340>.
- 144 Heather Zaykowski, *Mobilizing Victim Services: The Role of Reporting to the Police*, 27 J. TRAUMATIC STRESS 365 (2014), <https://onlinelibrary.wiley.com/doi/abs/10.1002/jts.21913>.
- 145 ROBIN FOEMMEL BIE, CAL. VICTIMS COMP. PROGRAM & CAL. VICTIM COMP. & GOV'T CLAIMS BD., THE CALIFORNIA VICTIM COMPENSATION PROGRAM BASELINE DATA REPORT: A COMPARISON OF 2010 CRIME RATES AND VICTIM COMPENSATION AWARDS 18 (2015), <https://victims.ca.gov/victims/ovcgrant2013/deliverables/CalVCPBaselineDataReport-OVCGrant2013.pdf>.
- 146 Jo Bryce et al., *A Qualitative Examination of Engagement with Support Services by Victims of Violent Crime*, 22 INT'L REV. VICTIMOLOGY 239 (2016), <https://doi.org/10.1177/0269758016649050>.
- 147 Masters et al., *supra* note 56.
- 148 See CTR. FOR VICTIM RESEARCH, *supra* note 45; Connolly & Gordon, *supra* note 42.
- 149 Marilyn Armour, *Meaning Making in the Aftermath of Homicide*, 27 DEATH STUD. 519 (2003), <https://doi.org/10.1080/07481180302884>; Peterson Armour, *supra* note 47.
- 150 Smith & Patton, *supra* note 58. Some studies suggest that African Americans are at a higher risk of prolonged grief and PTSD. Goldsmith et al., *supra* note 57, at 360; Roberts et al., *supra* note 58.
- 151 NAT'L CTR. FOR VICTIMS OF CRIME & OFFICE OF JUSTICE PROGRAMS, OFFICE FOR VICTIMS OF CRIME, HOMICIDE (2017), https://www.ncjrs.gov/ovc_archives/ncvrw/2017/images/en_artwork/Fact_Sheets/2017NCVrw_Homicide_508.pdf.
- 152 David Finkelhor et al., *The Victimization of Children and Youth: A Comprehensive, National Survey*, 10 CHILD MALTREATMENT 5 (2005), http://www.unh.edu/ccrc/pdf/jvq/publication_CV73.pdf. See also Anna Laurie & Robert A. Neimeyer, *African Americans in Bereavement: Grief as a Function of Ethnicity*, 57 OMEGA 173 (2008), <https://doi.org/10.2190/OM.57.2.d>.
- 153 One study of the African American experience of grief found that African Americans are 2.5 times more likely to experience prolonged grief than bereaved whites. Goldsmith et al., *supra* note 57.
- 154 *Murder with Impunity*, WASH. POST (Jan. 7, 2019), <https://www.washingtonpost.com/graphics/2018/national/murder-with-impunity/>.
- 155 William J. Stuntz, *Unequal Justice*, 121 HARV. L. REV. 1969, 2023 (2008).
- 156 Tanya L. Sharpe, *Sources of Support for African-American Family Members of Homicide Victims*, 17 J. ETHNIC & CULTURAL DIVERSITY SOC. WORK 197 (2008), <https://www.tandfonline.com/doi/abs/10.1080/15313200801947231>.
- 157 Rebecca Hatton, *Homicide Bereavement Counseling: A Survey of Providers*, 27 DEATH STUD. 427 (2003), <https://www.tandfonline.com/doi/abs/10.1080/07481180302878>.
- 158 One website that tracks murders in Oakland echoes this perception of Oakland homicides: "A lot of innocent people died in Oakland in 2014. However some of them were just thugs killing each other and it's almost relieving to know there is one less animal out there." *Oakland Homicide Victims—2014 Homicide Summary*, OAKLAND-MOFO, <http://www.oaklandmofo.com/homicide-victims-2014> (last visited Oct. 8, 2019).

AUTHOR AND ACKNOWLEDGMENTS

AUTHOR	Roxanna Altholz Clinical Professor of Law Co-Director, International Human Rights Law Clinic (IHRLC) University of California, Berkeley, School of Law
DEDICATION	For the Martinez Family in loving memory of Rolando “Nano” Martinez and for all the families mourning the loss of loved ones to violence. “’Tis a human thing, love, a holy thing, to love what death has touched./ <i>Es algo humano, amor, algo santo, amar lo que la muerte ha tocado.</i> ” <p style="text-align: right;">– Judah ha-Levi</p>
COVER IMAGE	“Super Hero Mural Project #3” by Graff Hunter
DESIGN	Report design by Stoller Design Group
ACKNOWLEDGMENTS	<p>I am immensely grateful to Katrina Natale, IHRLC teaching fellow from 2015 to 2018, who worked on the design and implementation of this study. I would like to express profound appreciation for her diligence, thoughtfulness, and especially her deep and enduring sense of humanity.</p> <p>I am equally grateful for the dedication of the IHRLC interns—Ismail Ali ’16, Maddie Boyd ’19, DeCarol Davis ’17, Darius Dehghan ’18, Nisha Giridhar ’18, Melissa Montenegro ’18, Christina Randall ’17, and Kyra Taylor ’16—who conducted research and interviews, drafted public records requests, and provided invaluable critical analysis.</p> <p>Thank you to Jonathan Cobb for his editorial assistance, to Laurel E. Fletcher for feedback that undoubtedly improved the approach to the project, to Eric Stover for his invaluable insights on the research, to Olivia Layug Balbarin for her assistance preparing the manuscript, to Sarah Weld for her support with distribution, and to Amy Utstein for her administrative leadership.</p> <p>I am also deeply grateful to the family members who participated in interviews and trusted us with their stories; the organizations that supported this research by facilitating interviews, including Catholic Charities of the East Bay and 1000 Mothers to Prevent Violence; and my colleagues who provided feedback on drafts, including Stephanie Campos-Bui, Ahmed Lavalais, Su Li, Russell Robinson, and Jeff Selbin. A special thank you to Elisabeth Semel who shared her knowledge and experience so generously.</p> <p>I am grateful to Dean Erwin Chemerinsky and the individual donors to the International Human Rights Law Clinic without whom this work would not be possible.</p>



BerkeleyLaw

UNIVERSITY OF CALIFORNIA

International Human Rights Law Clinic

International Human Rights Law Clinic
University of California, Berkeley
School of Law
353 Boalt Hall
Berkeley, CA 94720-7200
phone: (510) 643-4800
humanrightsclinic.org

ISBN# 978-1-938722-09-7

