

Appendix 1B

Training Memo—Risk and Dangerousness: Managing Severe or Lethal Violence

These additional appendices referred to in this training memo are key to its understanding and implementation:

- *Appendix 1A: Practitioners' Guide to Risk and Danger in Domestic Violence Cases*
- *Appendix 1D: History of Domestic Violence Summary Instructions and Sample*
- *Appendix 1E: History of Domestic Violence Summary*
- *Appendix 2G: Training Memo—911 Attention to Violence*
- *Appendix 3O: Follow-up Investigations and Expanded Attention to Risk*

Introduction

When practitioners in the criminal justice system attempt to determine the risk a particular domestic violence offender poses and the danger for victims and interveners, they are disadvantaged by a system that historically has not gathered, interpreted, and disseminated information in a coordinated, strategically sound way.¹

Read almost any domestic violence death review report in the country and you will see a striking example of the system's failure to "connect the dots" and adjust the level of intervention to the context and level of danger an offender presented. The Blueprint for Safety (Blueprint) seeks to connect those dots every day on every case by implementing two primary objectives:

- Objective 1: Organize practitioners at each point of intervention to gather, interpret, and disseminate information on domestic violence cases in order to determine context (the kind of domestic violence that is occurring) and dangerousness (the level of violence and harm that has occurred and is likely to occur in the future).
- Objective 2: Provide practitioners at each point of intervention with:
 - Immediate access to what is known about the "context and dangerousness" of a case
 - The authority and the capacity—tools, time, information—to adjust responses along a continuum of a standard intervention, moving to an elevated and then maximum intervention depending on the circumstances surrounding the case

To accomplish its primary objectives, the Blueprint requires:

1. Organizing practitioners to gather information, determine context and dangerousness, and engage in risk management as an interagency function requiring coordination, cooperation, agency-to-agency and practitioner-to-practitioner accountability (versus an individual agency task).

¹ The following terms are used interchangeably in this training memo: intervening practitioner, intervener, and practitioner.

2. Establishing a system of interagency communication that allows key practitioners immediate access to what is known about the risk markers of any given case. This requires that every practitioner:
 - a. Is trained and well-versed on the kinds of actions and situations that predict a high likelihood of repeat abuse or escalating and even lethal violence²
 - b. Routinely documents and appropriately disseminates new information about the presence of risk factors in domestic violence cases
3. A model of victim engagement that recognizes the need for information from victims in order to obtain an accurate read of what is occurring. Such engagement requires meaningful dialogue with victims and recognition of the changing nature of risk and the inherent dangers to victims of communicating with outside interveners.

Understanding context and the dynamics of “battering” as a form of domestic violence

Domestic violence that presents as an ongoing pattern of coercion, intimidation, and emotional abuse, reinforced by the use and threat of physical or sexual violence, is often referred to as “**battering**.” It is battering that comes to mind when most people say, “This is a case of domestic violence” or “She is a victim of domestic violence.”³ The purpose of battering is typically to control what the victim says, thinks, feels, or does. The power dynamic created between the offender and victim through ongoing coercion and violence becomes an overarching framework within which the victim and intervening practitioner must operate. The power dynamic shapes every exchange between the victim and intervener and between the offender and intervener; practitioners should not assume that victims of battering are free to act in their own interest.

Most domestic violence arrests involve cases of battering, but many do not. Domestic violence that is not an ongoing pattern of abuse is embedded in very different social circumstances and requires a different intervention. The Blueprint is designed to capture information and position interveners to respond differently to non-battering domestic violence offenders and to batterers. Much of the Blueprint’s specialized approach is attempting to adjust the criminal justice system’s approach to the dynamics of battering, namely: (1) the patterned use of abusive tactics, including violence and intimidation; and (2) the targeting of an intimate partner which results in an ongoing state of coercion and a form of entrapment of the victim.

Targeting an intimate partner with a patterned use of coercion and intimidation typically produces a second form of domestic violence: **resistive violence**. The violence used by a victim of battering (referred to as a victim-defendant or victim-suspect in the Blueprint) is significantly different from the violence and coercion used by an abuser to control an intimate partner. The individual acts may look the same under the law but bear little resemblance to each other in context. For example, when an ongoing victim of coercion, intimidation, control, and violence by an intimate partner attempts to leave that abuser, she is more likely to be seriously injured or killed after or during separation than before separation. At the same time, when a batterer leaves his partner who has used resistive

²For this we have drawn from the work of respected researchers in the field, including J. Campbell, P.R. Kropp, J. Roehl, and N. Websdale. See *Appendix 1A: Practitioner’s Guide to Risk and Danger in Domestic Violence Cases*.

³Stark (2007) estimates that coercive control is involved in at least 60% of domestic violence cases where women seek help. For research sources and citations, see Blueprint Chapter 9, Endnotes, and the Bibliography.

violence against him he is NOT likely to be further victimized with increased or more lethal violence. Quite the opposite; he will likely experience less or no future violence.⁴ The Blueprint is designed to help interveners determine whether resistive violence is being used and, if so, respond differently to resistive violence than to a pattern of coercion and intimidation targeting an intimate partner. Intervention responses should be carefully crafted to challenge the violence used by a victim/defendant without further strengthening the batterer's position of dominance and power.

Some forms of mental illness, drug or alcohol addiction, or brain injury are involved in cases that come into the criminal court system classified as domestic violence cases. They may pose significant risk of future harm to someone, but for very different reasons than a case of coercive and patterned abuse against an intimate partner. Such cases will invariably require different responses by the court. These non-battering-related cases can be complex and differentiating between them and cases of battering or resistive violence requires interagency information-gathering and communication.

Gathering information about the context in which domestic violence offenders use violence can help us separate those who are engaging in a pattern of ongoing control and intimidation from those offenders who are not. Once that separation is made, the research summarized in the Blueprint's *Appendix 1A: Practitioners' Guide to Risk and Danger in Domestic Violence Cases* can be applied to offenders who are targeting their intimate partners with patterned coercive violence. Other offenders must be considered on a case-by-case basis according to the underlying causes and history of the violence.

Making the violence visible

When an offender uses a pattern of ongoing coercion, intimidation and violence, the degree of psychological and physical control over the victim is almost always a serious obstacle to effective intervention. This control is linked to the abuser's sense of entitlement to his or her actions and economic, social, psychological, or legal domination of the victim.⁵ It is also exacerbated by the offender's refusal to acknowledge to others the full extent of the violence and coercion being used. Many victims of ongoing abuse describe this lack of acknowledgement of the harm as an enormously powerful tool of control and entrapment.

The dynamics of domination, submission, resistance, and retaliation are constant features of victims' lives. These features try the most patient and understanding of practitioners and often evoke tremendous frustration and sometime unhelpful judgments on the part of those who seek to stop the violence. In cases of battering, there is no neutrality available to the practitioner; every action taken either challenges an abuser's sense of entitlement or reinforces it. A practitioner's actions either let the abuser's taunts—"No one is going to believe you"—loom larger than life over her, or help to deflate that power.

⁴We use gendered pronouns here because there is no research on separation violence in cases of women batterers and male victims of ongoing abuse by a woman.

⁵We use "he or she" when discussing batterers here to include lesbian abusers who operate out a similar sense of ownership and entitlement when battering. It is rare to find heterosexual women using violence in this way. It is not rare for heterosexual women to use violence, but few use it in the way we are discussing here as a pattern of aggression, coercion, intimidation and violence intended to establish control and dominance over a partner. (See the discussion in *Violence Against Women*, volumes 8 (November 2002) and 9 (January 2003), edited by Andrea Bible, Shamita Das Dasgupta, and Sue Osthoff.)

The Blueprint calls for consistent articulation of what is understood to be the nature and extent of the violence whenever possible during arraignment, bail or plea negotiations, trials, and sentencing. Practitioners should use every opportunity to: 1) paint as accurate a picture as possible of the full extent and context of the violence, intimidation and control; 2) send messages to the victim, family members, and the offender that the *offender* is responsible for this destructive and unacceptable violence; and 3) challenge assumptions that minimize or fail to acknowledge the full extent of the damaging effects of the violence and coercion, including the potential for lethality.

Intervention based on context and risk

The Blueprint organizes 911 call takers, responding officers, and investigators to gather, record, and disseminate risk information differently than they have in the past, with a collective interagency eye toward making the level of the violence and risk to victims visible. Bail evaluators, prosecutors, jail staff, and victim-witness advocates all use the information gathered by 911 and law enforcement, as well as their own, to increase the level of knowledge about the history and context of violence. If organized to do so, each practitioner can help expand the collective capacity to produce an accurate picture as possible of the danger and safety needs and respond accordingly.

The Blueprint envisions a system where a first-time conviction leads to a full investigation by the probation officer to document the history and context of the offender's use of violence. The probation officer who produces the presentence investigation (PSI) receives information from each preceding practitioner in the case. This PSI has a twofold purpose: 1) to inform the sentencing judge what is institutionally known about the context and level of abuse and 2) to produce and update a summary of the violence that will be available to any subsequent interveners, whether they come into contact with the offender in two days or two years. The History of Domestic Violence Summary (HDVS) is a new approach under the Blueprint and is expected to significantly enhance practitioners' ability to adjust their interventions to the specifics of each case. (See *Appendix 1D: History of Domestic Violence Summary Instructions and Sample* and *Appendix 1E: History of Domestic Violence Summary*.)

A coordinated flow of risk management information

The Blueprint has been designed to address some of the biggest challenges for any community that seeks to coordinate its interventions in domestic violence cases: capturing context and severity, keeping the institutional knowledge of a case up to date, and allowing every intervening practitioner easy access to what is institutionally known about a case. Countless details need to be built into the everyday work routines of every practitioner who touches the case. The Blueprint includes protocols that provide the basis for building a successful interagency approach to understanding the nature of each case. The primary tasks necessary to create a coordinated flow of risk management information are described below.

Coordinated Flow of Risk Management Information in Domestic Violence Cases		
Point of intervention	Primary task	Requires that practitioners...
911 call taker, dispatcher, and records section	Elicit, document, and dispatch specific information about the case as it is reported through the 911 system.	<ul style="list-style-type: none"> ▪ Accurately code domestic violence calls (domestic relationship and incident involving intimidation, violence, coercion, threats, harassment, criminal trespass, or other crimes). ▪ On every domestic violence call, enter <u>explicit</u> information about the parties' relationship into the record keeping system (CAD). ▪ Stay alert to calls initially coded as non-domestic in which a domestic violence element becomes evident. ▪ Be <u>explicit</u> about what the caller has experienced, heard, seen, or concluded about what is occurring. ▪ Document who is calling in the report and where the officer can find that person. ▪ Document who is at the scene. ▪ Ask about and dispatch details about the presence and use of weapons, any known history of violence by the suspect, and the nature of any injuries. ▪ Communicate to officers via CAD or radio any changing circumstances related to risk and danger of parties at the scene. ▪ Share CAD reports with bail evaluators, charging attorneys, prosecuting attorneys, and presentence investigation writers preparing the PSI and HDVS.
Patrol officer	Routinely ask questions of the victim regarding the history and pattern of abuse.	<ul style="list-style-type: none"> ▪ Ask about and document information from victims about the pattern, severity, and context of abuse. ▪ Ask and follow up on the three risk questions: <ol style="list-style-type: none"> 1. Do you think that the suspect might seriously injure you or others? 2. Can you describe the time you were most afraid or injured by the suspect? 3. What is the pattern of abuse? Is it becoming more or less frequent? More or less severe? ▪ Try to determine if the victim is being intimidated or coerced by the suspect to not seek help or cooperate with interveners.

Point of intervention	Primary task	Requires that practitioners...
Investigator Investigation supervisor	Conduct follow-up interviews with an expanded set of risk questions in all felony cases and misdemeanor cases where victims express a fear of serious harm or indicate previous felony-level assaults.	<ul style="list-style-type: none"> ▪ Read all patrol reports on misdemeanor and felony domestic violence cases to determine whether an investigator should be assigned. (Investigation supervisor) ▪ Assign investigators based on the severity of the incident and the severity of the overall violence. (Investigation supervisor) ▪ Consult with on-call advocates to determine if they have permission to share information about the history and context of abuse that the victim has provided. ▪ Relay information about the context and severity of the abuse gathered during the investigation to the charging attorney, prosecuting attorney, bail evaluator, victim-witness advocate, and presentence investigation writer preparing the PSI and HDVS. ▪ Keep an electronic version of all information gathered on cases, regardless of whether there is a conviction.
Jail officer	Interrupt attempts to intimidate or harass the victim and report any attempts to influence the victim's participation in the case.	<ul style="list-style-type: none"> ▪ Block the inmate's access to all phone numbers listed on the victim information form. ▪ Review all correspondence from inmates charged with domestic violence–related offenses for threats or attempts to influence the victim's participation in the case. ▪ Document any intimidation, harassment, and threats the inmate makes to harm the victim or others and forward the report to the arresting agency. ▪ Report violations of no-contact orders to the arresting agency.
Bail evaluator	Gather and relay to the court information collected by previous interveners about the incident and history of abuse	<ul style="list-style-type: none"> ▪ Use information from the police report if available or the CAD report and any protection order and harassment order affidavits. ▪ Review with the victim the information she or he provided to the patrol officer in response to the three risk questions. ▪ Whenever possible, if the patrol or investigator's report is unavailable, ask the same three questions of the victim that the patrol officer asks and include that information in the report to the court.

Point of intervention	Primary task	Requires that practitioners...
Prosecutor or victim-witness specialist	Clarify and expand the understanding of the context and severity of abuse and the possible harm to the victim of state action.	<ul style="list-style-type: none"> ▪ Review with the victim any statements made to 911 call takers, patrol officers, and investigators. ▪ Clarify the information provided in the statement and update the picture of the history and context of abuse used toward the victim. ▪ Solicit help from the victim in determining whether the suspect is battering, using resistive violence, or using violence because of mental illness, drug addictions or physical illness. ▪ Discuss with the victim the possible dangers or harm that she or he is vulnerable to because of state action to pursue a conviction.
Advocacy program	With clear permission from the victim, share additional information about the context and level of violence with other interveners.	<ul style="list-style-type: none"> ▪ Make contact with the victim within hours of an arrest. ▪ Obtain clear and <u>unpressured</u> permission to share information that the victim has provided with the bail evaluator, investigator, or charging attorney. ▪ Relay information the victim has agreed to share to the victim/witness specialist and the presentence investigation writer preparing the PSI and HDVS. ▪ Solicit help from the victim in determining whether the suspect is battering, using resistive violence, or using violence because of mental illness, drug addictions, or physical illness.
Probation Presentence investigation writer Supervising probation officer	Via the PSI and the HDVS, paint the most complete picture possible of the history and level of abuse used by the defendant—both toward the victim of the immediate crime and toward other intimate partners.	<ul style="list-style-type: none"> ▪ Use the aggravating and mitigating circumstances section of the PSI to document all non-confidential information that reliably indicates the presence of specific acts of violence, aggression, intimidation, or coercion by the defendant toward an intimate partner. ▪ Use the confidential section in a similar manner to document confidential information related to the violence (e.g. victim interviews by PSI writer). ▪ Incorporate information about the history and severity of violence gathered by preceding interveners. ▪ Focus on factors included in <i>Appendix 1A: Practitioner's Guide to Risk and Danger in Domestic Violence Cases</i>. ▪ Create the HDVS and disseminate to other interveners via the agency's controlled-access web site or other designated mechanism. ▪ Update the HDVS as new or additional information is available from practitioners who have subsequent contact with the offender.

Using Appendix 1A: Practitioners' Guide to Risk and Danger in Domestic Violence Cases

Practitioners should not assume that the Guide to Risk and Danger lists every possible risk marker for continued violence or lethality. Instead, the Guide uses key categories of risk to identify the indicators of severe violence or lethality. Every practitioner should be familiar with, look for, and document the key categories of risk and danger included in the guide.⁶ They can then weigh this information from the research with their own experience in domestic violence cases and the conditions highlighted in the guide as particularly associated with increased risk and lethality. When there is violence without these risk factors present, practitioners should consider the probability that the case is one of either resistive violence or non-battering related domestic violence.

While a victim's perception of danger can be a very powerful predictor of re-assault, 47% of victims of femicide failed to recognize the potential for lethal violence or attempted murder.⁷ **At a minimum, an intervening practitioner should always ask a victim:**

- How recent was the last violence?
- Is the violence increasing in frequency?
- What types of violence and threats are you experiencing?
- Do you think [the offender] will seriously injure or kill you or your children?

The answers to those questions along with the accumulated information reveal the context and dangerousness of the case and serve as a guide for the intervening practitioner's response.

⁶ From P.R. Kropp and S.D. Hart, *The Development of the Brief Spousal Assault Form for the Evaluation of Risk (B-Safer): A Tool for Criminal Justice Professionals* (Ottawa, CA: Department of Justice, Family Violence Initiative, 2004), pp. 72-73. Retrieved from http://canada-justice.net/eng/pi/rs/rep-rap/2005/rr05_fv1-rr05_vf1/d1.html. J. Roehl, C. O'Sullivan, D. Webster, and J. Campbell, *Intimate Partner Violence Risk Assessment Validation Study* (Washington, DC: National Institute for Justice, 2005): 15. Available at <http://www.ncjrs.gov/pdffiles1/nij/grants/209731.pdf>. N. Websdale, *Lethality Assessment Tools: A Critical Analysis* (Harrisburg, PA: VAWnet, a project of the National Resource Center on Domestic Violence/PCADV, 2000). Retrieved from http://new.vawnet.org/category/Main_Doc.php?docid=387

⁷ Weitz, Tolman, and Saunders (2000); Heckert & Gondolf (2004); Roehl, et. al (2005); see Blueprint Endnotes.