

B. APPENDIX B - ASSESSING FOR LETHALITY

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Introduction

“Men of all ages and in all parts of the world are more violent than women...When it comes to violence, women can proudly relinquish recognition in the language, because here at least, politically correct would be statistically incorrect.”

--Author Gavin DeBecker on his use of male, gender-specific language in *The Gift of Fear*.

There are many efforts to determine which factors indicate an increased risk for homicide in domestic violence cases. The bottom line is that there is no single factor or set of factors that can be used as fail-proof indicators in assessing lethality. Yet several factors have emerged from research that can be considered significant in contributing to an increased risk for serious injury or homicide. The National Institute of Justice, in its November 2003 issue on the Assessment of Risk factors for intimate partner homicide, has found that among women who reported being subject to domestic violence, those who had been threatened or assaulted with a gun were 20 times more likely to be killed than other women, and those who were threatened with murder were 15 times more likely to be killed than other women. Research indicates that a combination of factors, instead of a single factor, increase the risk of intimate partner homicide. The research cited in this section refers specifically to intimate partner homicide, which does not include elder or child abuse. An “intimate partner” is defined as spouse, ex-spouse, boyfriend, girlfriend, ex-boyfriend or ex-girlfriend.

Margaret Zahn (2003) advises that although research has come a long way in determining the risk factors associated with intimate partner homicide, there is a disconnect between our social policies and our knowledge of these factors. She urges us to do a better job of linking the two if we are to resolve this social problem. Zahn believes intimate partner homicides and other homicides will decrease when the criminal justice system and victim service organizations focus on these risk factors.

Lethality factors can be useful courtroom tools. The best source of information for judges is the police report. If the police report doesn't specifically address lethality factors, judges can ask law enforcement about their presence or absence, which in turn would encourage police to put the factors into the police reports directly. Lethality factors can be helpful in determining bond conditions and issuing temporary protection orders. When using lethality factor analysis, it is important to consider context over the presence of physical violence; threats coupled with other

non-physical lethality factors may indicate a more dangerous situation than one alone involving physical violence. A lethality factor analysis can assist judges in more thoroughly assessing the context in which domestic violence occurs, and in better anticipating danger and violence.

A. Lethality Factor List

Quantitative Lethality Factors (severity and amount of prior violence)

- Attempted strangulation
- Sexual assault
- Increase in violent attacks
- Threats to kill
- Access to firearms
- Animal or pet abuse

Qualitative Lethality Factors (behaviors related to abuser's desire for power and to control victim)

- Controlling/jealous behavior
- Victim's efforts to leave/sever relationship
- Depression/thoughts of suicide
- Victim's terror
- Harassment/stalking-type behavior

Environmental Lethality Factors

- Unemployment
- Substance abuse
- Access to victim
- Pregnancy

B. Lethality Factors

Quantitative Lethality Factors (timing, frequency and severity of violence)

1. Attempted strangulation

A 2003 National Institute of Justice report found that women who were subject to domestic violence, and who had been the victims of attempted strangulation, were 10 times more likely to be killed than other women (*NIJ Journal*, No. 250)

A 2008 *Journal of Emergency Medicine* study found that 43 percent of women who were murdered in domestic assaults and 45 percent who were victims of attempted murder had previously been choked by their male partners.

In 2010 Ohio and New York drafted legislation to join the majority of states in criminalizing strangulation or choking as a felony (Bello, 2010).

In Georgia, strangulation would fall under the simple assault statute, OCGA §16-5-20.

2. Sexual assault
3. Increase in violent attacks

When an abusive partner increases the frequency of his violent acts, this poses a high risk of violence to the victim and to the abuser.

No matter how severe the most recent act of violence, the occurrence of an incident within 30 days of that violence places the woman at high risk of being killed or of killing the abuser.

It is important to remember that there need not be a long history of violence; even the first incident of domestic violence can be fatal.

4. Threats to kill

A 2003 National Institute of Justice report found that women who were subject to domestic violence, and were threatened with murder, were 15 times more likely to be killed than other women (*NIJ Journal*, No. 250).

In more than half of the cases reviewed by the Georgia Domestic Violence Fatality Review Project, threats to kill the primary victim were documented before the homicide. These threats cannot be dismissed as mere words; they must be taken seriously by victims and service providers alike.

5. Access to firearms

A 2003 National Institute of Justice report found that women who were subject to domestic violence, and were threatened or assaulted with a gun, were 20 times more likely to be killed than other women (*NIJ Journal*, No. 250).

When a gun was in the home, women were six times more likely to be killed by their abuser than other women in abusive relationships. Research also suggests that abusers who possess guns “tend to inflict the most severe abuse.”

The Georgia Domestic Violence Fatality Review Project found that of all of the deaths studied from 2003 to 2009, the majority were committed with firearms (2009).

6. Animal or Pet Abuse

A 1997 study found that 71% of pet owners entering domestic violence shelters reported that the batterer had threatened, injured, or killed family pets (Ascione, F.R., Weber, C.V. & Wood, D.S. (1997). The abuse of animals and domestic violence: A national survey of shelters for women who are battered. *Society & Animals* 5.3: 205-218)

A 2007 study found that batterers who abuse pets use more forms of aggressive violence, such as sexual violence, marital rape, emotional violence, and stalking, and demonstrate a greater use of controlling

behaviors (Simmons, C & Lehmann, P. Exploring the Link Between Pet Abuse and Controlling Behaviors in Violent Relationships. *Journal of Interpersonal Violence* 22.9 (2007):1211-1222

Pet abusers are more likely to be domestic violence abusers, to have been arrested for other violent crimes and drug related offenses, and engage in other delinquent behavior. Many abusers have a history of animal abuse that precedes domestic violence towards their partner. (Ascione, F.R., Weber, C.V., Thompson, T.M., Heath, J., Maruyama, M., Hayashi, K. Battered Pets and Domestic Violence: Animal Abuse Reported by Women Experiencing Intimate Violence and Nonabused Women, *Violence Against Women* 13.4 (2007): 354-373 and Weber, C.V. A Descriptive Study of the Relationship Between Domestic Violence and Pet Abuse. *Dissertation Abstracts International. Section B: The Sciences and Engineering*. 59.80-B (1999).

Qualitative Lethality Factors (behaviors related to abuser's desire for power and to control victim)

1. Controlling/jealous behavior
2. Victim's efforts to leave/sever relationship
The Georgia Domestic Violence Fatality Review found that in almost all domestic violence cases reviewed from 2003 to 2007, victims had indicated a desire to separate from their abusers just before the homicide – whether filing for a protective order, moving out and getting an apartment, or talking with family about leaving (2007).
3. Depression/thoughts of suicide (on the part of the abuser)
The Georgia Domestic Violence Fatality Review found that in cases from 2004 and 2006, 38 percent of the perpetrators attempted or completed suicide at the homicide scene or soon after. In 29 percent of the cases, the perpetrator had a history of depression or was depressed.

In a majority of the cases from 2004 to 2009, friends and family were aware of the perpetrator's suicidal threats and attempts, but did not understand how the perpetrator's threats to hurt himself could impact the safety of the victim and others.

4. Victim's terror
5. Harassment/stalking-type behavior
Of the cases reviewed by the Georgia Domestic Violence Fatality Review Project from 2003 to 2009, 43 percent of homicide victims were stalked by their abusers before their murders. In many of these cases, stalking escalated after separation.

Environmental Lethality Factors

1. Unemployment

Jacquelyn C. Campbell (2003) found the abuser's lack of employment to be the strongest environmental risk factor for intimate partner homicide, increasing the risk fourfold.

2. Substance abuse

Sharps et al (2003) studied the connection between alcohol and drug use during, and in the year leading up to, an intimate partner homicide (or attempted murder), and found the following:

Very high levels of alcohol and drug use were seen in males who murdered or attempted to murder their partners;

In the year before the homicide or life-threatening abuse of their female partner, 80 percent of the male abusers were problem drinkers.

Homicide and attempted homicide abusers were described as drunk every day or as a problem drinker or drug user.

Two-thirds of the homicide and attempted homicide offenders used alcohol, drugs, or both during the incident.

The research shows that when a male abuser is a problem drinker or drug user, his female partner is in a particularly dangerous situation. It also indicates that serious alcohol use by abusers increases the risk for a deadly incident to occur.

3. Access to victim

4. Pregnancy

C. Practical Application of Lethality Factors

The majority of victims who are abused by their intimate partners use the criminal justice system as their first line of defense. Most often that is a call to the police, but for many it is through the civil courts when they file a petition for a civil protective order. This points to the court's power to intervene through their policies and practices and attitudes to prevent intimate partner homicides. The following is a list of suggestions:

Police Reports

The best source of information regarding lethality factors present in a violent situation is the police report. Judges can ask law enforcement about the presence or absence of lethality factors.

Work with law enforcement to encourage the development of a procedure for documenting lethality factors in police reports.

Temporary Protective Orders

Lethality factor analysis can be helpful in assessing the context in which domestic violence occurs, and in better anticipating danger and violence. Remember to consider the presence of lethality factors in addition to the severity of the act of violence when making decisions. Assaults or threats, coupled with other non-physical lethality factors, may indicate a more dangerous situation than one that includes more physical violence.

Be aware that by seeking a temporary protective order (TPO), a victim is signaling that his or her situation could be serious in spite of the lack of previous documentation.

When interviewing a TPO petitioner during the *ex parte* hearing know the indicators that signal an increased risk for homicide and ask the petitioner the appropriate questions to determine that risk.

In cases of very high risk (where a victim is planning to leave a very jealous and controlling partner with whom he or she lives) it is important to warn her not to confront her partner with that information and make an immediate referral to an advocate who can help her develop a safety plan.

In high risk situations, restrict the abuser's access to guns. A recent study (Bridges, Tatum and Kunselman, 2008) revealed that limiting firearm availability once a protective order has been served may help to reduce family homicide rates. The study found that in 47 states, there was an inverse correlation between family homicide rates and states mandating firearm restrictions during a protective order.

Either through the prosecutor's office or the local shelter, have an advocate who is immediately accessible to victims of intimate partner violence. It may be the only opportunity to provide them with resources for their safety.

Provide a list of local resources for anyone seeking seeks to file a temporary protective order.