

Arizona Association of Family and Conciliation Courts

2013 Summit Project



DOMESTIC VIOLENCE PRELIMINARY INTERVENTION PLAN:

**ASSESSMENT AND EARLY INTERVENTION
FOR ALLEGED ABUSERS, ABUSED
PERSONS, AND CHILDREN**

Summit Project

The Arizona Chapter of the Association of Family and Conciliation Courts (AzAFCC) is an interdisciplinary organization comprised of mental health professionals, judicial officers, attorneys, academics, mediators, and others engaged in the family law process. In meeting one of the Mission Statement objectives for the organization, the 2009-2010 Board of Directors of AzAFCC endorsed proceeding with an annual project designed to address a core issue that arises in the family law arena.

Each Summit Project's goal is to create a product that can be used as a resource for those who confront the identified issue. The inaugural committee was responsible for addressing a specific issue and developing an infrastructure for use by future Summit Project committees. The intended users of these resources are the professionals engaged in the family law arena.

The 2013 Summit Project is "Domestic Violence Preliminary Intervention: Assessment and Early Intervention for Alleged Abusers, Abused Persons, and Children" (the Assessment and Set of Recommendations). The focus of this Project is to provide suggestions on questions to ask to quickly identify the potential for lethality or serious physical harm arising out of any domestic violence situation and to recommend a range of choices for appropriate immediate responses. It also provides recommendations and/or court orders for the alleged abusers, abused persons, and children.

This Assessment and Set of Recommendations are for use as a resource. They are not comprehensive or authoritative works, do not carry any legal weight, and are not endorsed by any organization, entity, or institution, including the AzAFCC parent organization, the Association of Family and Conciliation Courts (AFCC), or the individual members of the AzAFCC Summit Committee. The Summit Committee is made up of a diverse group, including interest groups, policy makers, professors, practitioners, and judicial officers. The report, therefore, does not reflect the views of any particular individual, organization, entity, or institution.

This Assessment and Set of Recommendations may communicate expectations that exceed those established by law or regulation. Where conflicts exist, applicable law, court rules, regulations, and agency requirements supersede this Assessment and Set of Recommendations.

In the area of domestic violence and family law, many other issues deserve attention and improvement. At the end of this Assessment and Set of Recommendations, the Committee suggests areas for further evaluation in future summits or other endeavors.

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**Arizona Association of Family and Conciliation Courts
2013 Summit Project**

Domestic Violence Preliminary Intervention Plan:

**Assessment And Early Intervention For Alleged Abusers,
Abused Persons, And Children**

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Introduction

If a family law matter involves children, all involved must consider whether domestic violence plays a role. As a legal and policy matter, Arizona law provides that domestic violence is “contrary to the best interests of the child.” In evaluating the impact of domestic violence, Arizona law also requires the family court to “consider the safety and well-being of the child and of the victim of the act of domestic violence to be of primary importance. The court shall consider an alleged abuser’s history of causing or threatening to cause physical harm to another person.”

In cases in which domestic violence is alleged, everyone involved should consider whether domestic violence screening for the abused person and the children would give a more accurate understanding of the family dynamics. This domestic violence screening would be parallel to alcohol and drug screenings when substance abuse may be an issue in the case. This screening may be particularly useful if there is no independent corroborating evidence of the alleged domestic violence. To be probative, the domestic violence screening must be performed by a professional with training and experience in domestic violence.

Early intervention when a family law matter involves domestic violence allows everyone to minimize the impact on the abused persons, especially the children. It also provides an opportunity for change in the alleged abuser. The family will be better served if all aspects of domestic violence are identified and addressed early in the case. Early intervention may improve the alleged abuser’s behavior, protect and empower the abused persons, and ensure that the children grow up in a violence-free environment.

Screening Assessment

The set of questions in this section provides a simple means of assessing an allegation of domestic violence to determine whether it needs immediate attention. This set of questions provides a preliminary screening measure. The questions are not a substitute for a comprehensive domestic violence assessment conducted by a trained and experienced professional.

All domestic violence allegations need to be taken seriously. Research, however, indicates that some behaviors are particularly predictive of future serious re-assault and death. If these behaviors are present, particularly in combination, it is important to take appropriate actions to protect the family.

The set of questions that the Summit Committee recommends are adapted from the *Domestic Violence Lethality Screen for First Responders* (Lethality Screen), developed by the Maryland Network Against Domestic Violence and based on the Danger Assessment (DA) developed by Dr. Jacquelyn Campbell, RN, PhD, FAAN (www.dangerassessment.org). Additional questions are included based on the Danger Assessment and the Danger Assessment for Immigrant Women.

The Danger Assessment is the only domestic violence risk assessment instrument specifically designed to identify women at risk for intimate partner homicide or near homicide. The Danger Assessment is shown to be predictive of intimate partner re-assault, severe re-assault, and femicide in eight separate research studies, five of them by independent research teams. All the research cited here and throughout this report can be found in Addendum 1, which contains a bibliography of the studies and articles that the Summit Committee reviewed and relied upon in preparing this Assessment and Set of Recommendations.

The language in the Lethality Screen is gender neutral and works best for the purposes of the Assessment and Set of Recommendations. Police departments in jurisdictions in 32 states, including some in Arizona, are using the Lethality Screen. The Lethality Screen is the subject of ongoing empirical evaluation.

The Summit Committee further recommends using several additional questions in cases involving immigrant women, particularly women from Latin America. The questions are based on studies identifying several risk factors that operate differently for that population.

We recognize the research that supports these questions is gender specific, focusing on women victims. We also recognize that women are most often the victims of domestic violence, particularly domestic violence that results in injury and intimate partner sexual violence. However, the Lethality Screen currently is being tested as a gender neutral instrument, for male and female victims, including same sex partners. This Assessment and Set of Recommendations is designed to work with opposite-sex or same-sex relationships that involve domestic violence regardless of the gender of the abuser and the victim.

Following the screening tool, we discuss each question that the Summit Committee recommends and the question's value in assessing risk. We also discuss the behaviors that heighten concern when found in combination. Citations for the research supporting each question can be obtained from the co-chairs (the Honorable David B. Gass and Connie J. A. Beck) or by contacting Dr. Jill T. Messing, MSW, PhD, Assistant Professor, School of Social Work, Arizona State University, 411 N. Central Avenue, Suite 800, Phoenix, AZ 85004.

Under-Reporting and Over-Reporting

Domestic violence under-reporting and over-reporting are a known and measured phenomenon. Abused persons may not identify domestic violence in initial court filings for many reasons, such as being afraid of the abuser and believing that talking about the abuse will make family matters worse.

No one should assume that failure to mention domestic violence early in the case means that domestic violence has not and is not occurring. Importantly, domestic violence may have occurred even when an abused person does not report victimization to police or family and friends while in the relationship,

immediately after the relationship ends, or understates the victimization. Abusers often blame and isolate the victim. Commonly, victims believe that the abuse was their own fault or fail to recognize that their experience is domestic violence. Abused persons often are ashamed of their abuse and are embarrassed to bring it up and talk about it if someone else brings it up.

Evaluators should be aware of certain common behaviors by victims. Many of the consequences of abuse (such as post-traumatic stress disorder and depression) may distort the victim's outward expression of emotion. As a result, a victim's testimony may appear rote, unemotional, or disengaged. Most of the symptoms dissipate with time away from the abuse.

Another important fact in family law cases is the under-reporting by perpetrators. Perpetrators minimize or claim that they have not committed violent or abusive behaviors when in fact they have done so, sometimes in the face of solid evidence to the contrary, such as police reports, pictures of injuries, and eyewitness accounts. Denials of violent or abusive behaviors require careful assessment. Those who intervene in family law matters should not assume the denials of domestic violence behaviors always are true.

The vast majority of accounts of domestic violence involve self-reporting and are accurate. Though some people may use allegations of domestic violence as an opportunity to get the upper hand in litigation, it is not a common occurrence. More commonly, perpetrators threaten their partners with taking away the children as a means of punishing the victim and reestablishing control in the relationship. Perpetrators who have been accused of domestic violence often minimize aggression to demonstrate the appearance of a non-violent family.

Many persons involved in family law find it easier to remember the exceptions to the above reality. When an alleged victim is shown to have lied about abuse, it stands out. When an alleged victim recants the allegations of domestic violence, it is a memorable event. Healthy skepticism about allegations of abuse are good, but should not ignore the fact that over-reporting is rare. More often than not, the allegations of domestic violence are true and warrant action.

No screening assessment can ferret out those who over-report or under-report domestic violence in their testimony to gain an advantage in the litigation, either to exaggerate violent and abusive behaviors or to minimize or to deny violent and abusive behaviors. It, however, can help identify those who are under-reporting because some of the questions do not intuitively suggest a link to domestic violence.

When under-reporting or over-reporting is suspected, the intervener should consider looking for corroborating evidence or having the parties undergo a domestic violence screening by a professional. The professional should be trained in domestic violence and have substantial experience working with abuse survivors, such as a mental health professional or advocate.

Parental Alienation

Parental Alienation, also called Parental Alienation Syndrome or P.A.S., was first defined by Richard Gardner in 1985. He defined it as a conscious effort by one parent (generally the mother) to disrupt or destroy the child's relationship with the other parent (generally the father). There are no peer-reviewed, published manuscripts that support Gardner's empirical data collection techniques, research methodology or analyses he performed on the data, which he then used to define Parent Alienation Syndrome. Gardner's research work was self-published, and thus had no input from expert peers regarding quality or viability of findings. No support exists for Parental Alienation Syndrome as Garner defined it. In fact, it was specifically rejected as a syndrome in the most recent revisions of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5). Litigants, however, continue to raise the issue, particularly in response to allegations of domestic violence.

Preference for one parent over another and rejection of a relationship or parenting time with one parent are not diagnostic in many cases. A child's unwillingness to visit one parent is better explained without reference to parental alienation syndrome. In cases where parental alienation syndrome is alleged, important factors to consider consistently identified by experts include a history of intense family conflict and at times domestic violence; a humiliating separation of the parents; a child's age, cognitive capacity and temperament; sibling influences; interferences in school activities and peer relationships; jealousy or resentment about a parent's new partner or step siblings; harsh or punishing parenting practices; a lengthy legal process; and, loyalty conflicts that are very common during a divorce.

Rather than focus on parental alienation, a syndrome that has no empirical basis and is not in the DSM-5, interveners should focus on obtaining a careful analysis of the relationship dynamics between all family members by a qualified, trained expert. Once the analysis is complete, custody and parenting time orders can then be structured to fit the specific needs of the family. Often custody and parenting time orders that are based on parental alienation syndrome without the careful analysis of **all** family members are harmful to children.

Domestic Violence Screening Questions

Yes___ No___	*1. Has he/she ever used a weapon against you or threatened you with a weapon?
Yes___ No___	*2. Has he/she threatened to kill you or your children? If he/she also has engaged in stalking behavior, the risk of following through on those threats increases significantly.
Yes___ No___	*3. Do you think he/she might try to kill you?
Yes___ No___	*4. Does he/she have a gun or can he/she get one easily? If he/she also has a substance abuse problem, the risk of re-assault and homicide increases significantly.
Yes___ No___	5. Has he/she ever tried to choke you?
Yes___ No___	6. Is he/she violently or constantly jealous, or does he/she try to control most of your daily activities? If the parties recently separated, the risk of homicide increases significantly. Separation is a broad term and includes “mini separations,” such as when the parties physically separate, file for divorce or a protection order, attend mediation, begin dating, or receive a final decree.
Yes___ No___	*7. Have you left or separated from him/her after living together or being married? If he/she also engages in jealous or controlling behavior, the risk of homicide increases significantly.
Yes___ No___	*8. Is he/she unemployed?
Yes___ No___	9. Has he/she ever tried to kill himself/herself?
Yes___ No___	10. Do you have a child living with you that is not his/hers?
Yes___ No___	11. Does he/she follow or spy on you or leave threatening messages?
Yes___ No___	12. Has he/she ever avoided arrest for domestic violence?
Yes___ No___	13. Is he/she an alcoholic or problem drinker or does he/she use illegal drugs? For example, specific drugs that are problematic include stimulants (amphetamines, methamphetamine, speed, cocaine, and crack).
Yes___ No___	14. Is there anything else that worries you about your safety (If yes, what worries you?)
	15. Have you immigrated to this country? If “Yes”
Yes___ No___	A. Do you not have any children living with you in your home?
Yes___ No___	B. Do you have any children in common with him/her living?

Any “Yes” response could indicate that domestic violence has occurred or will occur in the future. The more “Yes” responses, the greater the risk of significant domestic violence, including homicide.

As noted above, the risk for future domestic violence increases dramatically if certain risk factors appear in combination, specifically the following combination of risk factors:

- Gun access/ownership **and** alcohol abuse/substance abuse (“Yes” to 4 and 13).
- Separation **and** jealous/controlling behavior (“Yes” to 6 and 7).
- Stalking **and** threats (“Yes” to 6 and 11).

*These questions are associated with the highest levels of risk for homicide.

Explanation of Questions from Lethality Screen

The questions noted with a "*" are associated with the highest levels of risk for homicide. The questions in this assessment are designed to identify persons who are most at risk of serious injury or homicide. It is important to remember that persons who have a low score on these items still may be in danger. The Summit Committee recommends that in all cases where domestic violence is alleged, the parties complete a domestic violence assessment performed by a professional with experience in domestic violence as resources permit.

***1. Has he/she ever used a weapon against you or threatened you with a weapon?**

Basis for Question: A perpetrator who threatens or uses a weapon is more likely to commit intimate partner homicide. In cases of homicide, the perpetrator was 4.08 times more likely to have threatened the victim with a weapon and 41.38 times more likely to have used a gun during a previous incident of violence.

***2. Has he/she threatened to kill you or your children?**

Basis for Question: A perpetrator who threatens to kill an intimate partner or children is more likely to commit intimate partner homicide.

- In cases of homicide, the perpetrator was 2.6 times more likely to have made previous threats to kill his intimate partner.
- Threats to kill children, especially when combined with threats of suicide, are an important indicator of familicide (i.e., the killing of one or both spouses, children and/or other family members).

***3. Do you think he/she might try to kill you?**

Basis for Question: This question takes into account the victim's perception of the risk.

- Threats to kill are particularly dangerous when a victim believes that her partner is capable of killing her.
- A victim is more likely to assess the risk correctly, but victims are more likely to underestimate the extent of the risk.
- Women may be more able to take into account *dynamic risk factors* (e.g., stress, recent drug use, escalation, and loss of a job) and *protective factors* (e.g., decreased stress, lessened drinking or drug use, and attending treatment) than *static risk factors* (e.g., criminal history, relationship characteristics, childhood abuse, and prior specific violent acts). The Danger Assessment has been shown to be more accurate than victim perception when in direct comparison.

4. Does he/she have a gun or can he/she get one easily?

Basis for Question: This question takes into account that access to a firearm leads to a higher risk of lethality or serious physical violence.

- In cases of homicide, the perpetrator was 7.59 times more likely to own a firearm.
- Firearms are the most frequent means of killing an intimate partner. Firearms are more likely to be used in intimate partner homicides than in non-intimate partner homicides.
- Taking other variables into consideration, the use of a firearm during a previous incident of violence increases the risk of homicide more than 40 times.
- For clarity, when asking questions, guns may include firearms, handguns, rifles, and assault weapons.

5. Has he/she ever tried to choke you?

Basis for Question: A perpetrator who strangles an intimate partner is more likely to commit intimate partner homicide.

- While the correct terminology is strangulation, women often report being “choked” as opposed to being “strangled.”
- Women who have been strangled by their intimate partner are 7.48 times more likely to be the victim of intimate partner homicide and are 6.70 times more likely to be the victim of an attempted intimate partner homicide.
- Manual strangulation also causes acute injury, including loss of consciousness, vision changes, dysphagia (difficulty swallowing), neck pain, and psychiatric problems that include depression and post-traumatic stress disorder (PTSD).
- Despite the high potential for injury and lethality, strangulation may leave few immediate and visible injuries (e.g., bruising develops later) and is often difficult for criminal justice personnel to detect without specialized training.

6. Is he/she violently or constantly jealous, or does he/she try to control most of your daily activities?

Basis for Question: A perpetrator who demonstrates constant jealousy or controlling behavior is more likely to commit intimate partner homicide.

- Women whose partners demonstrate sexual jealousy are 4.91 times more likely to be killed by their intimate partner. The risk increases when the perpetrator believes that the victim is cheating or when the victim has left the perpetrator for another intimate partner.
- Women whose partners are highly controlling are 2.9 times more likely to be killed by their intimate partner.
- “Controlling behavior” can include taking the victim’s house or car keys, checking the victim’s voicemail/email/text messages, taking the victim’s money, controlling family finances or keeping the victim from working, going to school, or spending time with the victim’s family or friends.

***7. Have you left or separated from him/her after living together or being married?**

Basis for Question: This question takes into account risk factors associated with separation.

- "Separation homicide" is theorized as a loss of control over an intimate partner. The most dangerous time for a victim of domestic violence is immediately after a separation.
 - The highest risk is in the first three months after a woman leaves her abusive partner.
 - Though women who leave an abusive partner eventually are safer, the risk remains high during the first year of separation.
- **Importantly, "separation" is not a one-time event.** It can include many "mini-separations" that extend the three to twelve month time-frame. "Mini-separations" may include:
 - Telling partner that he/she wants to separate;
 - Moving out of the home (if living together);
 - Filing for divorce/custody of minor children;
 - Filing for a protective order;
 - Attending mediation;
 - Finalizing divorce/custody arrangements;
 - Beginning to date or entering into another relationship; and
 - Exchanging children in-person.
- If the victim has never lived with her partner, her overall risk for homicide when she separates decreases by 66%.

***8. Is he/she unemployed?**

Basis for Question: A homicide perpetrator is more likely to be unemployed. In cases of homicide, the perpetrator was 5.09 times more likely to be unemployed. This risk factor is particularly salient when the perpetrator is not actively seeking employment.

9. Has he/she ever tried to kill himself/herself?

Basis for Question: This question takes into account the relationship between intimate partner homicide and suicide.

- Research shows that approximately 30% of men who kill their intimate partner then attempt or commit suicide.
- Other people are killed in 10% of intimate partner homicide-suicides; 67% of these victims are children.
- Approximately the same number of perpetrators of homicide (71.2%) and homicide-suicide (78.3%) threatened to kill their intimate partner.

10. Do you have a child that he/she knows is not his/hers?

Basis for Question: A homicide victim is more likely to have a child living in the same home that is not the intimate partner's child.

- In cases of homicide, the victim was 2.23 times more likely to have a child living with her that was not her intimate partner's child.
- Step-children are more likely to be murdered in male-perpetrated familicides.

11. Does he/she follow or spy on you or leave threatening messages?

Basis for Question: **Stalking** is one of the most common risk factor for intimate partner homicide.

- Overall, 62% of stalking victims are stalked by an intimate partner.
- Stalkers are more likely to be violent if they have had an intimate relationship with the victim.
- In the year prior to the homicide, 76% of homicide victims were stalked.
- In the year prior to an attempted homicide, 85% of attempted homicide victims were stalked.

12. Has he/she ever avoided arrest for domestic violence?

Basis for Question: Many serious domestic violence offenders avoid arrest in many ways. For example, offenders leave the scene before police arrive and sometimes the offenders take the victim with them. In addition, partners are often too scared to call police. A prior arrest for domestic violence is a predictor of future abuse but not intimate partner homicide.

- A prior arrest has been found to increase the likelihood of future non-fatal intimate partner abuse but to decrease the likelihood of future partner homicide.
- These points appear counterintuitive, but arrest tends to increase the likelihood of future assault but decrease the likelihood of homicide. That is, arrest is protective against homicide but not against re-assault. A perpetrator with a prior arrest for domestic violence was less likely to commit or attempt to commit intimate partner homicide by 66%, particularly among highly dangerous or extremely abusive men.

13. Is he/she an alcoholic or problem drinker or does he/she use illegal drugs?

Basis for Question: A high percentage of perpetrators who killed or attempted to kill their partner were drinking alcohol or using drugs at the time of the incident.

- Some specific drugs are problematic, including stimulants such as amphetamines, methamphetamine, speed, cocaine, and crack. Other street drugs and mixtures of street drugs also are problematic.
- **Alcohol:** 49.2% of men who killed/attempted to kill their partners were described as problem drinkers and 35.1% were intoxicated every day. Men who killed/attempted to kill their partner tended to be binge drinkers, with over half drinking 5 or more drinks per episode and 33.7% drinking 7 or more drinks per episode.
- **Drugs:** Women whose partners use illegal drugs are 4.76 times more likely to be the victim of intimate partner homicide.
 - 54.2% of men who killed/attempted to kill their intimate partner used drugs in the year prior to the woman's death.
 - 12.6% of homicide/attempted homicide offenders were using drugs at the time of the homicide.
- **Alcohol/Drugs:**
 - Between 25-60% of perpetrators who killed/attempted to kill their partners were using drugs, drinking, or using drugs and drinking at the time of the incident.
 - The broad range is the result of differences in measurement in separate studies, with one study focused on people using drugs and then included people using drugs with alcohol. A second study focused on people using alcohol and then looked at those who used alcohol with drugs.

14. Is there anything else that worries you about your safety (If yes, what worries you?)

Basis for Question: The question makes sure that nothing gets overlooked.

Explanation of Additional Questions for Immigrant Women

Based on the literature examining domestic violence homicide, the Committee recommends asking the following additional questions for immigrant women:

15.A. Do you have any children living with you in your home?

Basis for Question: The presence of children in the home decreases the risk of serious repeat abuse for immigrant women.

- For immigrant women, family make-up is more important than it is for non-immigrant women.
- For immigrant women, having no children in the home increases the risk for severe abuse by 3.35 times.

15.B. Do you have any children in common with him/her?

Basis for Question: The presence of children in common decreases the risk for abuse for immigrant women.

- For immigrant women, having no children in common with an abusive partner increases the risk of severe abuse by 3.72 times.

Combinations of Risk Factors

If the following combinations of risk factors are present, the risk of re-assault and homicide increases significantly.

- **Gun access/ownership and alcohol abuse/drug use:** Gun access or ownership is particularly dangerous when combined with alcohol abuse or drug use.
- **Separation and jealous/controlling behavior:** Among women whose partners are highly controlling, separation increases the likelihood of being killed by 8.98 times versus separation alone, which only increases the likelihood by 3.94 times.
- **Stalking and threats:** Stalkers who also make threats, such as threats to kill, are more likely to carry out those threats.

Addendum 2 contains the Screening Tool that the Summit Report recommends, which includes questions from the *Domestic Violence Lethality Screen for First Responders* and additional questions for immigrant women. Other domestic violence screening instruments have been developed and tested, but the Summit Committee did not select them for this project. Addendum 3 contains the *Domestic Violence Lethality Screen for First Responders*. Addendum 4 contains a list and brief explanation of the additional domestic violence screening instruments that the Summit Committee reviewed.

Preliminary Intervention with the Alleged Abuser

Under Arizona law, a family court can take six actions early in a case when attempting to intervene quickly in a case that involves domestic violence. The first section of this report details screening questions for quickly identifying potentially dangerous cases. Under the statutory scheme, those involved in a family court matter should consider seven preliminary types of orders relating to the perpetrating parent. Whether the source of the intervention is a judge, an attorney, or a mental health provider, the intervener should consider what, if any, action is appropriate in each of the following seven areas:

1. If requested by the victim, enter an order of protection.
2. Order the perpetrator to complete a batterers' intervention program.
3. Order the perpetrator to complete a program of substance abuse counseling, if the case involves allegations of substance abuse. If the case does not involve those allegations, the family court may still want to order the perpetrator to undergo an evaluation for substance abuse to rule out a possible unidentified cause.
4. Order the perpetrator to complete an extended parenting class.
5. Impose court-ordered restrictions on the perpetrator's parenting time.
6. Impose controls and limitations on communication between the parents.
7. Refer the matter to the police in the jurisdiction where the incident occurred or to the Division of Child Safety and Family Services (formerly Child Protective Services).

The above scheme does not end the discussion. Any early intervention should take into account the specific facts of the case, as known, to determine what resources are appropriate.

Using the Statutory Scheme

Orders of Protection

To begin, the abused parent must affirmatively seek an order of protection. If a court has issued an order of protection "after notice and a hearing at which the defendant had an opportunity to participate," that court may "require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court."

Orders of protection matters are not always consolidated into an open family court matter, so using this avenue may require the parties to ask the court with jurisdiction over the order of protection to order participation. The family

court judge using Arizona's legal decision making statutes, however, also has the option of ordering participation in the domestic violence offender treatment program even in the absence of an order of protection. Addendum 5 contains the current Arizona statutes relating to orders of protection, and Addendum 6 contains the current Arizona statutes relating to domestic violence and the best interests of the child when awarding parenting time and legal decision making, which in many jurisdictions would be an award of custody.

Legal Decision Making

By statute, Arizona courts no longer award "legal custody." Instead, beginning in 2013, Arizona courts award "legal decision making." As with "legal custody," "legal decision making" may be joint or sole. Addendum 6 contains the current Arizona statutes relating to legal decision-making, including the Arizona statute establishing how the court must treat domestic violence when determining legal decision making.

The family court may not award joint legal decision making to a perpetrator if the family court finds the presence of "significant domestic violence pursuant to the state statute A.R.S. § 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence." This finding, however, may not preclude parenting time as discussed below. For that reason, even if the case involves significant domestic violence, those involved in a family court matter should consider the appropriate orders that might facilitate parenting time with the perpetrating parent while keeping the victim and children safe. In some case, parenting time may not be appropriate because it may not be safe under any conditions.

If the family court finds that a parent committed an act of domestic violence against another parent, there is a rebuttable presumption that an award of legal decision making to the perpetrating parent is contrary to the child's best interests. A "rebuttable presumption" means that the judge must assume, without hearing more, that the perpetrator of domestic violence should not be the legal decision maker. However, the judge may hear and consider evidence that could contradict the presumption.

The legislature has identified a list of six factors for the judge to consider when deciding whether the perpetrating parent has overcome the presumption. The six factors are:

1. Whether the parent has demonstrated that being awarded sole legal decision making or joint physical or legal decision making is in the child's best interests.
2. Whether the parent has successfully completed a batterers' intervention program.
3. Whether the parent has successfully completed a program of alcohol or drug abuse counseling.
4. Whether the parent has successfully completed a parenting class.

5. If the parent is on probation, parole, or community supervision, whether the parent is restrained by a protective order that was granted after a hearing.
6. Whether the parent has committed any further acts of domestic violence.

The rebuttable presumption does not apply if both parents committed acts of domestic violence against each other; however, these six factors noted above do not become irrelevant. When a case presents issues of domestic violence, the family court appropriately should consider these six statutory factors at the outset and when entering final orders.

To improve the outcome at the end of the case, each intervener should consider how to address the six factors early. For example, parents and children may benefit if the perpetrator begins a batterers' intervention program at the outset rather than waiting until later in the case. If appropriate, requiring a parent to participate in a program of alcohol or drug abuse counseling or to complete a parenting class early on also may have a beneficial effect.

Parenting Time

The family court also may impose restrictions on parenting time if it finds a parent committed an act of domestic violence. Under those circumstances, the perpetrator has the burden of proving to the court's satisfaction that parenting time will not endanger the child or significantly impair the child's emotional development. If the perpetrating parent meets this burden, the court must place conditions on parenting time that best protect the child and the other parent from further harm. Addendum 7 contains the current Arizona statutes relating to parenting time.

The family court has a great deal of discretion in fashioning appropriate parenting time restrictions when credible allegations of domestic violence are made. The list of orders can be as varied as the family situations presented. In short, the family court and the parties should think "outside the box," both in terms of restrictions to protect any victims, which may include the children, and to protect the children even if they are not direct victims.

The following is a list of possibilities that any intervener should consider but the list should not be considered exhaustive:

1. Require the exchange of the child to occur in a protected setting as specified by the court. If a protected setting is necessary, then the location must be secure and the persons present must be trained in domestic violence to ensure that the exchange occurs safely and without incident.
2. Require an agency specified by the court to supervise the perpetrating parent's parenting time.

- If an agency is used, then the location must be secure and the supervisors must be trained in domestic violence to ensure that the parenting time occurs safely and without incident.
 - If the court allows a family or household member to supervise the perpetrating parent's parenting time, the court must establish conditions that the all must follow during the supervised parenting time. The Arizona AFCC 2012 Summit Project addressed non-professional supervisors. See <http://azafcc.org/resources/>. When modifying existing orders to restrict parenting time, the family court also must consider state statute A.R.S. § 25-411.J. Subsection J provides that the family court "may modify an order granting or denying parenting time rights whenever modification would serve the best interest of the child, but the court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger seriously the child's physical, mental, moral or emotional health."
 - If the court orders supervised parenting time, the court should consider the impact under the state statute A.R.S. § 25-408. As of January 1, 2013, § 25-408 no longer requires notice for relocations if the moving parent has sole legal decision making and the other parent has supervised parenting time.
3. Require the perpetrating parent to attend and complete, to the court's satisfaction, a program of intervention for domestic violence perpetrators and any other court ordered counseling.
 4. Require the perpetrating parent to abstain from possessing or consuming alcohol or controlled substances during parenting time and for twenty-four hours before parenting time.
 5. Require the perpetrating parent to pay all supervised parenting costs.
 6. Prohibit the perpetrating parent from having overnight parenting time.
 7. Require the perpetrating parent to post a bond to ensure the child's safe return.
 8. Protect as confidential the address of the victim parent and the child.
 9. Require the perpetrating parent to undergo individual counseling. Family counseling with the perpetrating parent and the child may be appropriate but must be carefully evaluated before imposing such an order.
 10. Impose any other condition necessary to protect the child, the victim parent, and any other family or household member.

The Perpetrator's Treatment

Because the family court must consider domestic violence before ordering any counseling, any intervener who is considering any treatment in a family court matter must consider domestic violence early in the case. A family "court shall not order joint counseling between a victim and the perpetrator of domestic violence." Therefore, if there is credible evidence of domestic violence, separate counseling is necessary, and the intervener should consider having the alleged perpetrator participate in a batterers' prevention program.

Not Anger Management

Based on its title, anger management may seem to be a logical solution to the problem of battering, but it should not be the primary treatment method for domestic violence offenders. Anger management alone is not appropriate for domestic violence perpetrators in family law matters, which means those who have committed behaviors that qualify as domestic violence under state statute A.R.S. § 25-403.03. Anger management would be appropriate for acts such as road rage or pushing a crossing guard at a child's school, which are not domestic violence.

Domestic violence is a problem of gaining power and control in an intimate relationship. It is not necessarily a problem of impulse control or anger management. As a result, research shows that at least one half of those who commit domestic violence are not violent outside of the home. Anger management, therefore, is rarely the main issue when a perpetrator commits acts of violence against those who meet the relationship test as defined under Arizona law.

Anger management, in fact, can be counterproductive to the goals of domestic violence interventions by minimizing the batterer's own responsibility for his/her actions and not recognizing the underlying dynamics of domestic violence. Research has shown that offenders who received only anger management were more likely to reoffend than those who received comprehensive batterers' intervention.

Anger management, however, may be part of a comprehensive batterers' prevention program. Almost all domestic violence intervention groups or batterer intervention programs or domestic violence misdemeanor offender treatment programs dedicate a portion of their curriculum to anger management issues, and dynamics. They generally will teach anger management and self-calming skills. Anger management, however, should not be the major focus of a batterers' prevention program. A comprehensive batterers' intervention program should include education and a focus on increasing empathy, redefining manhood, and more cooperative decision making.

Batterers' Prevention or Intervention Programs

Because of their limited effectiveness, prevention and intervention programs must be supplemented by other actions to protect the victim and any child. They must be viewed as a part of an overall plan, not a stand-alone solution. Prevention and intervention programs work for some but not others. The effectiveness depends on the perpetrator recognizing the issue and wanting to change. Otherwise, the programs are not going to be effective.

Further, the studies generally only examine re-arrest, showing a modest reduction in re-arrest or no reduction at all. The studies, however, do not examine whether the perpetrator has reoffended but avoided re-arrest. Therefore, intervention programs overall have not been proven effective. Indeed, some studies have shown that the programs have resulted in an increase in domestic violence because the perpetrator learns how to avoid detection.

At the outset, many perpetrators do not successfully complete a batterers' prevention or intervention program. Key indicators that the perpetrator will not complete the program include the following: being younger, having less education, have a greater criminal history, having a history of violence in the family of origin, being unemployed, having a history of substance abuse, lacking a motivation to change, and lacking court sanctions for non-compliance.

Those who are more likely to complete a program are those who have a stake in completion, including those who are older, married, and employed. In short, the perpetrator is more likely to complete the program if the perpetrator faces personal or court sanctions for failing to complete the program. Any court-ordered treatment should involve an automatic sanction for failure to comply with enrollment and/or completion. The reason for using an automatic sanction is to avoid forcing the victim to bring the perpetrator back to court because of the perpetrator's failure to comply.

A wide variety of batterers' prevention programs are available. Batterers' prevention programs are appropriate for situations in which the violent behavior is directed at a family member or intimate partner, in that it meets the relationship test for classification as domestic violence.

The Arizona Department of Health Services has been charged with developing regulations for misdemeanor domestic violence offender treatment standards. The programs approved by the Arizona Department of Health Services may be available to the family court if the family court makes the necessary findings and if the perpetrator meets the requirements for the state-approved programs.

One factor to consider is that longer programs have been shown to be more effective. When the programs are offered to persons who have been convicted of a domestic violence offense, the programs in Arizona must be approved by the Arizona Department of Health Services or be offered by a criminal justice agency such as a probation department. Under the Arizona Department of Health Services regulations, a first misdemeanor conviction requires no fewer than 26 sessions, a second misdemeanor conviction requires

no less than 36 sessions, and a third misdemeanor conviction requires no less than 52 sessions. Each session must be between 90 and 120 minutes for group counseling. Individual counseling must be 60 minutes.

The family court, therefore, should impose some requirements with regard to the batterers' prevention or intervention program, such as those used by the Arizona Department of Health Services. Some requirements would be the number of or length of sessions and the types of sessions.

Depending on the perpetrator's mental health issues, the perpetrator may benefit from additional individual counseling. For example, post-traumatic stress disorder (PTSD) may exacerbate acts of domestic violence. Other mental health issues, such as bi-polar disorder and schizophrenia, also can exacerbate the situation. The individual perpetrator should be evaluated to determine whether separate, more personalized or focused, treatment options would help change the perpetrator's behavior.

Substance Abuse Counseling

Substance abuse does not cause domestic violence. Substance abuse, however, may exacerbate the severity and the frequency of domestic violence. Therefore, if substance abuse is identified as an issue when domestic violence is alleged, the substance abuse also must be addressed. However, substance abuse treatment will not change domestic violence behavior.

Depending on the individual, different substance abuse programs will work better than others. Drug or alcohol testing also may be appropriate. The Court should consider the personal attributes of the perpetrating and substance abusing parent in determining the best approach. At a minimum, any program should require abstinence and random testing to assure compliance. If financially feasible, in-patient programs offer the best means of changing behavior when followed by intensive out-patient treatment.

The range of substance abuse programs are varied. Professional treatment services range from in-patient treatment, intensive out-patient, and out-patient. 12-step programs also offer support. Some domestic violence group programs integrate substance abuse in a more systematic manner than others.

Intensive in-patient is out of reach for all but the most highly insured or wealthiest families. Intensive out-patient and out-patient offer patients a more financially feasible option. Intensive out-patient generally meets at least 2 to 5 times a week in group, or in a combination of group, individual, and 12-step programs. Out-patient typically involves one group session per week. For families with no financial resources, local 12-step options may be the only resource.

Importantly, the family court should be cautious with any referral without first confirming that the agency or counselor is competent to do a thorough professional assessment of the degree of substance abuse to determine the appropriate level of treatment.

Extended Parenting Classes

Domestic violence impacts parenting skills. There are no parenting classes that focus on parenting children who have experienced domestic violence. Some domestic violence programs for victims, however, address co-parenting with a perpetrator. As with substance abuse counseling, taking a parenting class, even an extended parenting class, will not reduce domestic violence in the future.

Most parents, even in the absence of domestic violence, will benefit from parenting classes. The extent of the benefit depends on the extent of the parent's active participation in the extended parenting class. The intervener may want to consider imposing a reporting mechanism so that the parent shows he or she actively participated and learned the materials that were covered in the class. Also, when domestic violence is alleged, the parents should not take the same class at the same time.

Arizona courts, by law, must offer a very basic introductory parenting program. Unless exempted by the family court, every parent in an Arizona family law case must take the court-sponsored program. The program offered by the Arizona courts is basic and only four hours long.

Many facilities offer extended parenting classes, including schools, churches, colleges and universities, domestic violence facilities, behavioral health agencies, online resources, etc. The costs can vary greatly, and many are free or available at greatly reduced costs.

A short four-hour course is not appropriate. An appropriate extended parenting class should include developmentally appropriate information focused on the specific ages of the children. The most common extended parenting classes continue for eight to ten weekly sessions, which is the shortest the court should consider. Because of the different developmental stages of children in families, the family court should carefully consider ordering extended parenting classes that will minimize the total number of classes that the parents will need to take to comply with the family court's orders. However, when the children's ages span many years, the parents may need to take more than one class.

With regard to extended parenting classes, the family court could allow the parent to select the class that best suits his or her schedule and needs. The family court could establish minimum requirements for any parenting class. The family court also could require approval of the parenting class to ensure that it complies with the family court's intended goals.

Restrictions and Limitations on Communication between the Parents

The method and manner of communication between parents can have a considerable impact on the outcome of a case. Along with setting plans for allocation of time with the child and how the child will be transferred from parent to parent, research has shown that it is important for parents to have a plan for how and when they will communicate.

By providing consistency and reducing opportunities for escalated aggression, predetermining when and how communication will take place is helpful for the parents and any child. Particularly in cases of domestic violence, it can be challenging and even traumatic to allow random and unplanned communication between the parties. It has become common practice to outline limitations on type and frequency of communication when protection orders are issued. Given that framework, Arizona law was recently amended to mandate that all parenting plans establish a plan for communication between the parents.

The 2011 Arizona Association of Family and Conciliation Courts took up the issue of the impact of parent communication on children in high conflict cases. This 2011 Summit Report found that, in general, making plans for communication between the parents led to better results for the child by reducing uncertainty and conflict. The report suggests that regular communication via email can be a positive form of communication. The parents also can use an online calendaring system, which will preserve a record of all communications and allow parents and others to secure up-to-date information. When a case involves allegations of domestic violence, the court should permit telephone communication only if the parents have a demonstrated ability to communicate without escalated conflict.

The guidelines offered in the 2011 Summit Report provide an excellent guide to determine the appropriate type and level of communication between parents when the case presents credible allegations of domestic violence.

Conclusion Regarding Perpetrators

The family court and the parties also should think “outside the box” in terms of resources to help address the perpetrator. For example, if the perpetrator is an active member of the armed services or a veteran, the family may have resources and potentially individual or family counseling available through the federal government, such as the Veteran’s Administration. The parties and the family court should explore what resources are available. The Arizona Health Care Cost Containment System (AHCCCS), Arizona’s Medicaid also provides numerous services for qualified families.

To assist judges in determining the instances with higher levels of risk, a *Domestic Violence Risk Assessment Bench Guide* was developed for Minnesota judges. This guide is one of many different assessment tools that could be utilized by the courts to help identify domestic violence. Addendum 8 contains the Minnesota *Domestic Violence Risk Assessment Bench Guide*.

Dr. Jacquelyn Campbell has done extensive work in the area of lethality and risk assessments and their validity. Dr. Campbell highlights the importance of having a reliable tool to determine risk. Without a reliable tool, judges and other court professionals may use beliefs or experiences that are less accurate than validated tools for determining risk associated with domestic violence.

Additionally, the Domestic Abuse Intervention Project (DAIP) recently released a new Power and Control Wheel depicting post-separation abuse involving the use of children. Addendum 9 contains this revised Power and

Control Wheel. DAIP offers other specialized wheels, including Spanish language versions, in PDF format at <http://www.theduluthmodel.org/training/wheels.html>. For many, abuse escalates post-separation and being in the family court is another venue for abuse to take place. This wheel provides examples of ways someone may continue to victimize even after separation.

Before using any of the tools identified in this Assessment and Recommendations, judges, court staff, and any other person using the tools should receive appropriate training on how to use tools and interpret the results appropriately.

Preliminary Intervention Relating to the Abused Person

For abused persons, preliminary intervention must focus on the safety of the abused person and any child. The preliminary intervention should reflect the problem being presented, whether it was physical violence, coercive control violence, or both. The intervener must evaluate the alleged perpetrator's behavior. The intervention should address that behavior and its consequences.

Importance of Making Recommendations, not Orders

Whether the intervener is a judge, an attorney, or a mental health provider, ordering an abused person to take certain actions can be counterproductive. The intervener risks becoming another source of control and risks imposing impractical solutions or services. The intervener instead should focus on recommendations or suggestions to abused persons.

When making recommendations, the intervener must try not to overwhelm the abused person. All recommendations must be tailored to the individual abused person. Not every abused person needs domestic violence shelter services or child care. If the intervener imposes requirements or makes too many recommendations, the intervener may overwhelm the abused person, who may then withdraw from the process, react with emotional outbursts, or engage in negative responses. The intervener should not assume that it reflects a lack of concern for the abused person's safety or the safety of any children.

The intervener also should be sensitive to cultural issues and language issues. Recent immigrants often face these challenges. For example, some abused persons may be mistrustful of the courts because of their cultural background. Some abused persons' cultural background may make it difficult for them to ask others for help and also cause them to reject traditional treatments. Cultural backgrounds further may make it difficult for the abused person to talk about the abuse, let alone to do something about it.

After taking into account the above, the intervener should consider recommending some of the following services:

- Housing, Shelters;
- Legal services;
- Counseling;
- Support groups (adults and children);
- Childcare;
- Employment;
- Transportation;
- Veteran's resources (also for spouses of veterans); and
- Substance abuse.

Conflicting Court Orders

Conflicting orders are all too common. The intervener must identify all the cases in which the family is involved. Those cases could be in several courts, including criminal, dependency, delinquency, family, protective orders, and probate. The intervener also should determine if courts in other jurisdictions have been involved with the family. A common example is when an abused person has a case in family court and has an ongoing dependency action, often brought by the Division of Child Safety and Family Services (CSFS) (formerly Child Protective Services). The intervener should take three actions to alleviate common issues. The three actions are: (1) *investigation*, (2) *consolidation* when possible, and (3) *coordination* (or deference when consolidation is not possible).

The first step involves *investigating* whether there are any other matters pending involving the parties. Often parties fail to identify other cases. And they often are not able to provide an accurate description of the orders that are in place. The intervener needs to ask about any other cases, confirm the current orders, and coordinate with those courts.

The second step is to consider *consolidating* the various cases into one court. To the extent the cases can be consolidated, it will ensure that the parties do not face conflicting orders, and it will simplify the process for the parties. The simpler the process for the parties, the more likely they are to comply. Consolidation also decreases the possibility of the parties playing one court against the other. If one judge manages the case, the parties have a level of predictability that can provide stability to the perpetrator, the abused person, and children.

When consolidation is not possible, for example when there is a pending criminal matter, *coordinating* between courts is critical. Consideration should be given to allowing one court or judge to deal with the parties. One court may want to defer to or abate that court's respective action. For example, the family court may need to address contact issues between the defendant and abused person by deferring to the criminal court's contact orders because of victims' rights. Any intervener should consider which court has the greatest resources available. When deference is not possible, each court should review the orders to ensure that they do not conflict.

Agency Directives

Court orders are not the only competing directives that families experience. When more than one agency is involved, abused persons often can also face conflicting directives from separate agencies involved with the family. For example, CSFS and police directives often leave abused persons feeling that they must relocate into shelters for fear of being charged with "failure to protect" a child. They feel threatened with losing custody of their children. Often this directive is not in writing so the abused person has nothing to submit to the court to prove that the concern was well-grounded. The resulting stress for the abused person is real and frightening.

The same three actions (*investigating, consolidating, and coordinating*) for conflicting court orders also apply when more than one agency is involved. The intervener should be *investigating* and contacting the various agencies to have them provide information in writing, resolve any conflicting directives, and testify in court. The intervener should be *consolidating* the actions and directives into one agency, preferably the agency that can provide most resources. At a minimum, the intervener must be *coordinating* with the various agencies to maximize stability and to minimize confusion.

When Both Parties Allege Domestic Violence

Rarely are two parents equally violent. Generally, one parent is the predominate aggressor. The other parent is responding to the aggressor's history of violence and coercive control or is acting in self-defense or protecting others, including children.

The intervener needs to look at all domestic violence incidents involving the parties. The intervener should seek to determine:

- Is there a history of domestic violence?
- Are there witnesses to the acts?
- Are there reports from other agencies, such as police reports?

The intervener then needs to put the incidents into context by looking at the relationship to determine whether the incidents demonstrate a pattern of abuse or control between the parties over time.

The intervener must consider any history of domestic violence. The history could suggest that an act of domestic violence in reality was an act of self-defense or was used to protect children or other family members. It could show that one parent was coercively controlling the other parent and other relevant information. With that historical information, the intervener will be better able to identify and recommend appropriate services for all the parties.

Preliminary Intervention Relating to the Children

Children as Victims

Interveners must evaluate each child early and ensure that each child receives the proper resources once it has been established the child has been exposed to domestic violence.

This section will examine the current research on the impact of children's exposure to domestic violence. As part of that review, this section will review mandatory reporting requirements for interveners and examine tools for evaluating children, such as the Child Exposure to Domestic Violence Scale (CEDV). It then will make specific recommendations for helping children who have been exposed to domestic violence. To that end, this section will review intervention strategies that professionals and families can implement to help children who have been exposed to domestic violence.

In summary, the Summit Committee recommends the following:

1. Determine the impact on a child who has been exposed to or witnessed domestic violence.
2. Determine whether mandatory reporting applies and comply with any reporting duty.
3. Consider appointing someone to represent the child, such as a court appointed advisor, best interest attorney, or attorney for the child.
4. Have the child evaluated by a professional who has experience working with children to identify the level of exposure to domestic violence and the impact on the child.
5. Have a professional who has experience working with children develop and implement an age and culturally appropriate plan to help the child work through the impact of the exposure to domestic violence.

Under no circumstances should a child be required to testify in open court. Any decision about interviewing a child needs to be by agreement of the parents or based on a judge's decision after hearing from both sides. Optimally, any child interview will involve a person who is specifically trained in child interview techniques.

Impact of Domestic Violence on Children

Children exposed to domestic violence are at risk of short-term and long-term consequences involving their emotional or psychological health, physical well-being, social interactions, and academic or cognitive functioning. The Adverse Childhood Experiences (ACE) study suggests exposure to domestic violence can lead to serious consequences into adulthood as well. These

consequences can result from witnessing domestic violence even if in a separate room from the violence, and they can affect all children, regardless of age.

In the short term, exposed children may exhibit difficulty sleeping, general anxiety, difficulty concentrating, increased aggression, increased separation anxiety, and increased worry about the safety of a victim-parent. Children who intervene to protect parents may be at risk of immediate harm. In the longer term, exposed children may develop cognitive or attitudinal problems, limited problem solving and conflict resolution skills, belief in rigid gender roles, and face higher levels of adult depression and trauma symptoms.

Children experience difficulties following exposure to domestic violence for a variety of reasons. To begin, exposure to domestic violence can have significant impacts on brain development. The stress the child feels either from the violence or from the neglect, releases hormones that alter and retard brain development. Also, domestic violence can impact children's emotional and physical health during their childhood and even into adulthood, affecting their own ability to engage in healthy relationships.

Children May Experience Child Abuse

Another immediate effect of domestic violence is unintentional child abuse. A child can be physically harmed by being in the way of the adult violence. Infants can be ripped out of one parent's arms or dropped when the parent holding the child is hit or pushed. Children can be hit by objects that have been thrown, or they can step between parents trying to protect the victim parent. The child also can become an intended victim of physical violence.

Child's Age as a Factor

The child's age at the time of exposure is a key factor suggesting potential impact, though children of any age suffer negative consequences from exposure to domestic violence. Children of different ages are affected by exposure differently. Though children of any age may suffer negative consequences from exposure, the immediate consequences vary based upon age.

Younger children are vulnerable in that they are in a period of rapid physical development and may be physically unable to remove themselves from a violent or abusive situation. Younger children's brains are also in a period of rapid development. Exposure to violence may alter the child's brain development, which can affect the child later in life.

In addition, exposed infants may experience a disruption in their attachment processes. Parents involved in domestic violence may be less able to respond to the infant's emotional and physical needs, disrupting the infant's normal attachment process. Preschool children, who continue to rely on parents for safety and daily needs are more likely to respond with fear, not only of their parents but also of others outside the family.

Pre-adolescent, school-age children at times search for something to do to prevent the domestic violence. They are the most likely age group to intervene in the dispute, potentially leading to physical harm to the child who gets between disputing adults. Pre-adolescent, school-age children often suffer from post-traumatic stress disorder (PTSD). Domestic violence further compounds the problem because the abuser often isolates the family and refuses to allow a child to participate in extra-curricular activities that could help the child deal with some of the PTSD symptoms. Finally, pre-adolescent, school-age children who are exposed to domestic violence display poorer academic achievement. A child's hyper vigilance and biological changes due to stress may decrease executive functioning and also decrease the child's ability to focus and to concentrate, which may affect the child's academic and social interactions.

Adolescents face some of the direct immediate consequences because when their families are not safe, they turn to peers to create families. Unsafe peer interactions can result, including gang membership, unsafe sex, and other risky behaviors. Exposed adolescents also are more likely to become involved in abusive relationships such as dating and close friendships in which the exposed child either becomes a perpetrator or a victim.

Long-Term Effects

Long-term effects for children who have been exposed to domestic violence include a range of negative outcomes such as altered brain development, interpersonal problems, adult physical health issues, and substance abuse. Although much of the brain development research on maltreated children includes children who are physically abused and neglected, there is also research on children exposed to domestic violence.

A critical period for brain development runs from before birth until age three. Before birth, a mother's stress level significantly affects the unborn child's brain development, and women involved in violent relationships live with higher stress. Children who are exposed to domestic violence before birth face possible alterations in normal brain development that make them more sensitive to stress hormones as they grow.

Post-birth, neural pathways develop fastest until about three years of age. The first three years is an important time for a child to learn, and if what the child learns to be hyper vigilant to avoid violence, those behaviors are more likely to remain with them for life.

Further, exposure to violence leads to chronic stress in children. Early chronic stress may result in a dysregulation in cortisol levels. As a result, the stress response system has less time to develop in a healthy state. Instead, the child remains in a hyper vigilant state. By being on high alert, the child's brain develops an overactive "fight, flight, or freeze" response. The parts of the child's brain involved in complex thinking may not be as stimulated, which alters brain development.

There has been significant focus on the Adverse Childhood Experiences (ACE) Study recently. The ACE study asks people to state whether they have experienced any one or more of ten events from childhood. Those who have experienced more of these events are more likely to have emotional and physical problems as they get older. Addendum 10 contains the ACE questionnaire.

The ACE study provides insight into the relationship between childhood difficulties and adult disorders. The ACE study, however, does not measure all forms of domestic violence. Instead, it only asks whether a female member of the home was hit, punched, grabbed, or otherwise physically assaulted. The ACE study also only asks adults about their childhood experiences. Thus, the ACE study is useful in that it gives better insight into the long-term effects of exposure to domestic violence trauma, but it does not fully address all the forms of domestic violence trauma to which children are exposed. Researchers have looked at the ACE study questions and updated them so that they are more probative for the youth of today. In that regard, they recommend discarding some items such as whether any member of the household was incarcerated and whether the parents were separated or divorced. Researchers also recommend including items such as socio-economic status, peer victimization, exposure to community violence, parents always arguing, no good friends, etc.

Each child is different, so children exposed to domestic violence exhibit a range of responses. The intervener in a family law case must consider those differences. An important factor to remember is that domestic violence is rarely a one-time event. Instead, a child generally lives with the domestic violence for years. Important pieces to consider are the length of exposure, the type of exposure, the severity of the violence, the relationship to the perpetrator, and the child's responses to the exposure. All are important pieces of the evaluation process to determine the interventions that the child needs.

Not all children exposed to domestic violence manifest symptoms of trauma. Some children are more resilient than others. One of the most telling factors for resiliency is whether the child has a strong relationship with a caring adult. These caring adults can be parents, but also can be grandparents, coaches, teachers, or friends. A resilient child may need less or more carefully crafted intervention.

One caveat to this discussion is that children exposed to high parental conflict or domestic violence may exhibit the same behaviors. Whether the symptoms are caused by high conflict or by domestic violence, two actions are important:

1. Any intervener must recognize the symptoms and secure appropriate treatment, and
2. The parents must be educated about the connection between their child's symptoms and the parents' behaviors toward each other.

In summary, exposure to domestic violence has many short-term and long-term effects on children. Exposure can occur before birth or at any time during the child's development. The above is a brief overview. The bibliography

provides resources for more in-depth information. Once an intervener learns the child has been exposed to domestic violence in the home, interventions are critical even if the parents deny the child was in the room where the violence occurred. Research finds that often children are aware of more behaviors related to domestic violence than their parents think they are.

Mandatory Reporting

Domestic violence, even absent any specific child abuse, is harmful to children. Increasingly, researchers, policy makers, and practitioners recognize exposure to domestic violence puts healthy development at risk in children of all ages, including pre-birth. In addition, children exposed to domestic violence may have increased external behavioral problems at home and at school as well as internalized feelings such as depression and lower self-confidence.

When a child is a victim of domestic violence (as defined by state statute A.R.S. § 13-3601), it constitutes child abuse and triggers mandatory reporting. Arizona law defines "mandatory reporters," who must report suspected child abuse or neglect in state statute, A.R.S. § 13-3620, which provides:

Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security . . .

The statute then defines "person" as a medical professional, a peace officer, a social worker, a parent, a guardian, school personnel, and "[a]ny other person who has responsibility for the care or treatment of the minor." The listed professionals only need to report if they learn of the abuse in their course of treatment or in their professional capacity.

Victims of domestic violence may under report their own abuse because they are afraid that they will be required to report child abuse, which may cause the victim to lose the child. This concern for the victim can explain some of under reporting.

In Arizona, lawyers are not mandatory reporters and the Rules of Professional Responsibility dictate what information an attorney must hold as confidential. Therefore, lawyers who represent children may not report confidential communications from their clients or any other source unless

disclosure of the abuse or neglect is otherwise permitted by the Rules of Professional Responsibility. In most instances, disclosure is not permitted unless the lawyer's client is the likely perpetrator of a future abuse or neglect or the client also is a victim who consents to reporting.

Ensure that the Impact on the Child is Not Overlooked

The court faces challenges in assessing and in evaluating the impact of domestic violence on the child. Arizona court rules, such as Rule 11 of the Arizona Rules of Family Law Procedure generally prohibit children from being in the courtroom and being actively involved in the litigation. Rule 11 presumes that a child's presence in the courtroom is not in the child's best interest, so the court must give prior permission before the children may be present.

As a result, the child's experience can be overlooked because the child has no presence in the courtroom. Judges must keep this impact in mind and be sure that it is addressed when ruling on legal decision making and parenting time issues.

The fact that parents often are not good historians when it comes to a child's exposure to domestic violence highlights the importance of looking to other sources of information about the child. Any intervener, therefore, should look to other sources for the following information:

1. Whether a child has been exposed to the alleged domestic violence in the home.
 - a. What is the level of the exposure?
 - b. What is the type of exposure?
2. Whether the exposure has impacted the child and nature of the impact. Some things to consider include:
 - Does a parent or other adult in the child's life recognize that there is a problem?
 - Has there been any change in school performance?
 - Has there been any change in sleep habits?
 - Has there been any change in eating habits?
 - Has there been any change in the desired parenting time?
 - Has the child acted out in an unusual or uncharacteristic way for the child?
 - Has the child begun responding with fear to loud noises or yelling?

Potential Court Appointments to Protect the Children

To ensure that the child's issues are addressed, the court should consider appointing someone to represent the child. The court must begin by determining whether an appointment is appropriate, which it often will be if domestic violence is alleged. Rule 10 specifically calls for an appointment of someone to represent

the child if “the parents are persistently in significant conflict with one another.” Significant conflict can exist with either high conflict or domestic violence. Next, the court must decide the type of appointment that best suits the situation.

Appointing someone to represent the child has the benefit of ensuring that there is a voice in addition to the parents and their attorneys. When the allegations include abuse or neglect, the court should consider an attorney with experience in juvenile dependency. The appointment of a child representative also would ensure that the child is evaluated by the proper professionals.

The court has three options: (1) Court Appointed Advisor (CAA), (2) Best Interest Attorney (BIA), and (3) attorney to represent the child.

A court-appointed advisor (CAA) makes recommendations regarding the best interests of the child and gives supporting rationale. A CAA may submit a report and may testify in court. The CAA may speak with the child and has access to all confidential and privileged records relating to the child. A CAA, therefore, may help the court determine whether the child has been exposed to domestic violence and provide suggested services to the court. A CAA can be particularly helpful when both parents are self-represented because the CAA can access the information and present it to the court in a format to allow the court to address the important issues, including domestic violence.

The court also may appoint lawyers to give the child a voice and a support throughout the family court process. The court may appoint either a Best Interest Attorney (BIA) or a “child’s attorney.”

Similar to a court-appointed advisor (CAA), a BIA provides the court with an opinion about the child’s best interest, but the BIA does not represent the child. The BIA nonetheless has a duty of confidentiality with the child. A BIA acts as an attorney in the proceedings by making arguments and examining witnesses. Unlike the CAA discussed above, the BIA may not testify in court or submit a report. A BIA can be particularly useful if the child does not want to tell the parents what the child wants. A BIA can take the child’s position and can argue it is in the child’s best interest without revealing whether it is what the actually child wants. The BIA, therefore, may afford the child some protection if the child fears repercussions from being asked to participate in the proceedings.

Unlike a BIA, a child’s attorney represents the child as a client. The representation is subject to the limitations Rule 1.14 of the Arizona Rules of Professional Responsibility, which governs the lawyer-client relationship with a client who has diminished capacity. As a client-directed attorney, the child’s attorney works to help the child and the court determine the best possible avenue for parenting time. If a child wants to see a parent, but the court does not believe it is safe, the child’s attorney can explain the options to the child, help the child come up with a plan, and present that position to the court. It allows the court to hear the child’s position from the child, through a representative, rather than from the parents or their respective attorneys. As with a best interest attorney (BIA), the child’s attorney may present evidence and argue the child’s position.

Intervention Strategies

Many interventions are available to a child who has been exposed to domestic violence, whether the child remains in the home or is removed from the home. Though these interventions exist, the most important aspect of each is that the family recognizes help is needed and is willing to work with the interventionist to learn new skills and to heal from the trauma caused by the domestic violence.

At a minimum, for any child intervention to succeed, the parent victim of domestic violence must recognize the need for intervention for the child, commit to the intervention for the child, and follow through. If there is to be any co-parenting, at a minimum, both parents must recognize the need, commit to it, and follow through.

Learn about the Child

Any intervention should involve a comprehensive assessment of the child. Depending on the type of assessment required, the intervener should try to obtain copies of all records relating to the child. This background will help identify areas of need and allow a professional to develop a plan of action to address the impact on the child.

To that end, the intervener should:

- Obtain copies of all daycare and school records.
- Obtain copies of all medical records.
- Obtain copies of all police reports related to the parties to determine whether they report the child's level of involvement.
- Contact the child's teachers, daycare providers, and childcare providers to obtain background information.
- Have a competent pediatrician evaluate the child. The pediatrician must be asked to make an initial assessment of the child.
- Obtain copies of any therapeutic intervention the child has received.

The intervener also should identify a competent professional trained in the treatment of children exposed to domestic violence and/or abuse to review the information and develop a plan of action for the child.

Child Exposure to Domestic Violence Scale ("CEDV")

The court should not perform the evaluations. The court, however, can order that parents take their children to someone to be evaluated and to report back to the court before finalizing parenting time orders.

The court and other interveners have options for evaluating children. One such tool is the CEDV. The CEDV scale asks children about their exposure to

domestic violence rather than asking parents to report their children's exposure. The CEDV itself can be found at <http://www.mincava.umn.edu/cedv/>. An online manual online explaining how to use the CEDV can be found at: <http://www.mincava.umn.edu/cedv/cedvmanual.pdf>.

Children exposed to domestic violence should be evaluated by a mental health professional with specific training in working with traumatized children even if the CEDV is not going to be used. Though the domestic violence programs have specific services to aid children whose parent needs to be in the program, there are other organizations, and private practitioners, offering assessment and individual counseling or group counseling for children generally. Many of these organizations accept Arizona Health Care Cost Containment System (AHCCCS), Arizona's Medicaid, and counseling is often covered under a parent's insurance policy.

Therefore, once the initial evaluation has been done, or if the court is sure the child has been exposed to domestic violence, the court can order the parents to enroll the child in counseling to help the child through the family's court process that will continue past the first hearing. In some instances, insurance will not cover court-ordered treatment. If ordering counseling will preclude insurance coverage, the court may consider using sanctions to encourage compliance.

In addition, all domestic violence programs in Arizona must have services for children. The list of these services is available at [https://www.azdes.gov/uploadedFiles/Aging_and_Adult_Services/Community_Services_Unit/Domestic_Violence_Program/Service%20Standards_fillable_final%20\(3\).pdf](https://www.azdes.gov/uploadedFiles/Aging_and_Adult_Services/Community_Services_Unit/Domestic_Violence_Program/Service%20Standards_fillable_final%20(3).pdf) (website accessed on March 16, 2014).

The services for children include, among others, childcare, transportation to school, activities for children, and offer safety planning for children.

Develop and Implement a Plan of Action

A competent professional must determine if a problem exists and develop a plan of action for each child. The plan of action should identify the domestic violence to which the child has been exposed and the impacts on the child. The plan of action then should identify specific actions to be taken to address the identified impacts. The plan of action also should consider the child's age.

Additional Considerations for Children

Depending on the child's situation, other avenues may help a child who has experienced domestic violence. Some avenues include:

- Would the child benefit from an individualized education plan (IEP) or from a change in schools?
- Are there school resources that could help address some of the problems for the child, including counseling, school psychologists, or childcare providers?

- For a young child, would the child benefit from therapy with the parent, such as Parent-Child Relationship Therapy (PCRT)? PCRT is one of the only types of therapy available to children under 5 who have been exposed to domestic violence.
- For an older child, would the child benefit family therapy?

The National Council of Juvenile and Family Court Judges has published A Judicial Guide to Child Safety in Custody Cases, which provides additional thoughts on ensuring any child is safe in a child custody case.

Conclusion Regarding Children as Victims

The court must determine whether the child has been exposed to domestic violence in the home. Additional services for the child can be implemented once it is determined the child has been exposed and whether the victim parent is engaged in a domestic violence program or if the child's services will be through a mental health agency or private practitioner.

FINAL THOUGHTS

The Assessment and Set of Recommendations is not intended to be a complete roadmap for resolving family law cases involving domestic violence. It also cannot provide a means of preventing domestic violence before it happens. Instead, it is designed to assist when domestic violence is reported, suspected, or identified in the context of a family law case.

The Assessment and Set of Recommendations is intended to give those who are intervening in the family dynamic some tools to help identify serious domestic violence issues. It also is designed to help give those same individuals some tools to help the family address and heal from the domestic violence. The goal of the suggestions is to minimize the short-term and the long-term adverse impacts of domestic violence for all who are impacted, whether it be the person who perpetrated the domestic violence, the direct victim of the domestic violence, or children victims who have been exposed to domestic violence.

In short, this Assessment and Set of Recommendations Project has limitations, but it hopefully serves as a starting point to help guide interveners on a path toward helping families who have experienced domestic violence.

Some areas that warrant further development and review include:

- Developing comprehensive parenting classes for use when the family has experienced domestic violence.
- Developing counseling paradigms for children who have been exposed to domestic violence in the home.
- Evaluating current batterers' intervention programs and identifying and developing effective intervention techniques to ensure the best outcomes for adults and children.
- Identifying any intergenerational transmission of domestic violence, which would require studying the long-term impact of childhood exposure to domestic violence. To that same end, it would involve studying whether the treatment paradigms should be the same for an adult who was exposed as a child as for an adult who was not.
- Developing protocols for first responders for documenting when children have been exposed to domestic violence, either by experiencing it directly as a victim, experiencing it vicariously (such as seeing or hearing it), or experiencing it after the fact (such as seeing a parent who has been injured or watching a parent be arrested).
- Identifying and funding resources for perpetrators, victims, and children to reduce the prevalence of domestic violence and to ensure safety of the family members and the community at large.
- Developing resources specifically for children who have been exposed to domestic violence, such as peer groups, community and school based therapeutic intervention, and education programs for parents so

that they can help their children who have experienced domestic violence.

- Considering a Summit Project to develop an early intervention paradigm in family law cases where child sexual abuse has been alleged.

ADDENDUM 1

Bibliography of Sources

In preparing this Assessment and Set of Recommendations, the Committee consulted a number of studies and articles. The resources that the Committee consulted are listed below. For readability, the Committee chose not to include citations for every statistic that we drew from these resources. If you have a question about the source for a particular statistic, please contact one of the co-chairs.

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ADDENDUM 2

Summit Project Recommended Screening Tool

SEE NEXT PAGE

Domestic Violence Screening Questions

Yes___ No___	*1. Has he/she ever used a weapon against you or threatened you with a weapon?
Yes___ No___	*2. Has he/she threatened to kill you or your children? If he/she also has engaged in stalking behavior, the risk of following through on those threats increases significantly.
Yes___ No___	*3. Do you think he/she might try to kill you?
Yes___ No___	*4. Does he/she have a gun or can he/she get one easily? If he/she also has a substance abuse problem, the risk of re-assault and homicide increases significantly.
Yes___ No___	5. Has he/she ever tried to choke you?
Yes___ No___	6. Is he/she violently or constantly jealous, or does he/she try to control most of your daily activities? If the parties recently separated, the risk of homicide increases significantly. Separation is a broad term and includes “mini separations,” such as when the parties physically separate, file for divorce or a protection order, attend mediation, begin dating, or receive a final decree.
Yes___ No___	*7. Have you left or separated from him/her after living together or being married? If he/she also engages in jealous or controlling behavior, the risk of homicide increases significantly.
Yes___ No___	*8. Is he/she unemployed?
Yes___ No___	9. Has he/she ever tried to kill himself/herself?
Yes___ No___	10. Do you have a child living with you that is not his/hers?
Yes___ No___	11. Does he/she follow or spy on you or leave threatening messages?
Yes___ No___	12. Has he/she ever avoided arrest for domestic violence?
Yes___ No___	13. Is he/she an alcoholic or problem drinker or does he/she use illegal drugs? For example, specific drugs that are problematic include stimulants (amphetamines, methamphetamine, speed, cocaine, and crack).
Yes___ No___	14. Is there anything else that worries you about your safety (If yes, what worries you?)
	15. Have you immigrated to this country? If “Yes”
Yes___ No___	C. Do you not have any children living with you in your home?
Yes___ No___	D. Do you have any children in common with him/her living?

Any “Yes” response could indicate that domestic violence has occurred or will occur in the future. The more “Yes” responses, the greater the risk of significant domestic violence, including homicide.

As noted above, the risk for future domestic violence increases dramatically if certain risk factors appear in combination, specifically the following combination of risk factors:

- Gun access/ownership **and** alcohol abuse/substance abuse (“Yes” to 4 and 13).
- Separation **and** jealous/controlling behavior (“Yes” to 6 and 7).
- Stalking **and** threats (“Yes” to 6 and 11).

*These questions are associated with the highest levels of risk for homicide.

ADDENDUM 3

Domestic Violence Lethality Screen for First Responders

SEE NEXT PAGE



DOMESTIC VIOLENCE LETHALITY SCREEN FOR FIRST RESPONDERS

Officer:	Date:	Case #:
Victim:	Offender:	
<input type="checkbox"/> Check here if victim did not answer any of the questions.		
▶ A "Yes" response to any of Questions #1-3 automatically triggers the protocol referral.		
1.	Has he/she ever used a weapon against you or threatened you with a weapon?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
2.	Has he/she threatened to kill you or your children?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
3.	Do you think he/she might try to kill you?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
▶ Negative responses to Questions #1-3, but positive responses to at least four of Questions #4-11, trigger the protocol referral.		
4.	Does he/she have a gun or can he/she get one easily?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
5.	Has he/she ever tried to choke you?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
6.	Is he/she violently or constantly jealous or does he/she control most of your daily activities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
7.	Have you left him/her or separated after living together or being married?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
8.	Is he/she unemployed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
9.	Has he/she ever tried to kill himself/herself?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
10.	Do you have a child that he/she knows is not his/hers?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
11.	Does he/she follow or spy on you or leave threatening messages?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Answered
▶ An officer may trigger the protocol referral, if not already triggered above, as a result of the victim's response to the below question, or whenever the officer believes the victim is in a potentially lethal situation.		
Is there anything else that worries you about your safety? (If "yes") What worries you?		
Check one: <input type="checkbox"/> Victim screened in according to the protocol		
<input type="checkbox"/> Victim screened in based on the belief of officer		
<input type="checkbox"/> Victim did not screen in		
If victim screened in:	After advising her/him of a high danger assessment, did the victim speak with the hotline counselor: <input type="checkbox"/> Yes <input type="checkbox"/> No	

Note: The questions above and the criteria for determining the level of risk a person faces is based on the best available research on factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence risk for lethal violence that are not captured by this screen. Although most victims who screen "positive" or "high danger" would not be expected to be killed, these victims face much higher risk than that of other victims of intimate partner violence.

LAW ENFORCEMENT TUBMAN CONTACT NUMBER: 651-770-8994

PLEASE FAX THIS FORM TO TUBMAN AT 651-770-5506

WASHINGTON COUNTY PROBATION FAX 651-430-6941 ATTN: MERCY ADAMS

ADDENDUM 4

List and Brief Explanation of Screening Instruments

The Ontario Domestic Assault Risk Assessment (ODARA) is comprised of 13 dichotomous questions whose answers are retrievable through a Canadian criminal database and is intended for use by police officers. Higher scores on the ODARA indicate an increased risk in both the frequency and severity of IPV recidivism.

The Domestic Violence Risk Appraisal Guide (DVRAG) is intended to be used with serious domestic violence offenders as a compliment to the ODARA. To score the DVRAG, mental health professionals use in-depth clinical information to combine the ODARA with the Hare Psychopathy Checklist.

The Spousal Assault Risk Assessment (SARA) includes a 20-item questionnaire that can be completed through interviews with the offender and the victim, and through access to criminal justice and clinical files. Completion of the SARA takes an estimated 60-90 minutes. The SARA is the only domestic violence risk assessment instrument to use structured professional judgment to determine the risk outcome; as such, it is recommend that evaluators possess graduate-level credentials and specific training in scoring the instrument.

The Domestic Violence Screening Inventory (DVSI) consists of 12 questions that can be answered based on the offender's criminal record. It is intended for use within the criminal justice system, specifically to determine the best pre-trial option for domestic violence offenders. Therefore, higher scores indicate higher likelihood of re-offense and noncompliance with court and probation orders. *See Williams & Houghton, 2004.*

The Kingston Screening Instrument for Domestic Violence (K-SID) is intended to predict domestic violence re-assault and has been used throughout the state of Connecticut to inform decision making about criminal sentencing, probation, and release.

The DV-MOSAIC was created to be utilized as part of a comprehensive police investigation into domestic violence, and is intended to inform assessments of risk of escalation, continued violence and homicide. *See www.mosaicmethod.com.* The DV-MOSAIC includes 48 questions and the instrument's computer-assisted delivery format assigns weights (e.g., 2%, 6%) to individual risk factors and compares them to cases with known outcomes.

The Danger Assessment (DA) is the only IPV risk assessment instrument specifically designed to predict lethality though the utility of the DA in predicting

domestic violence re-assault and severe re-assault has also been supported. *See* www.dangerassessment.org. The DA consists of a 20-item survey and a 12-month calendar, and takes approximately 40 minutes to complete.

Though the DA predicts repeat assault with similar or better accuracy than most other validated domestic violence risk assessment instruments, the ability of the DA to predict severe assault and homicide is particularly noteworthy.

There is a growing recognition that risk factors for intimate partner homicide are not the same across diverse populations, and the DA is the only IPV risk assessment instrument that is adapting to suit the unique needs of these special populations. The DA has been revised to focus on the specific risk factors and information needs of young women (joinonlove.org), women in same sex relationships, immigrant women, and Indigenous women in Canada.

The original DA was created as a collaborative empowerment tool, intended to assist victims of domestic violence in determining their risk of homicide and planning safety strategies with a social service or healthcare provider. However, there is also a growing recognition that domestic violence risk assessments must be adapted for various users and settings. Using the DA as a foundation, additional instruments specifically for use in the court context have been created. Unfortunately, to date no research has been conducted on these modifications of the DA.

The Domestic Violence Lethality Screen for First Responders, an adaptation of the DA, was created by the Maryland Network Against Domestic Violence in collaboration with law enforcement, other criminal justice system practitioners (prosecutor, parole and probation agents), domestic violence advocates, and researchers (including Professor Campbell). As a shortened version of the DA, the Lethality Assessment was able to be tested using previously gathered data. The Lethality Assessment achieved 94% sensitivity for lethal and near lethal re-assault (i.e., 94% of women screened in to the high risk category experienced lethal or near lethal re-assault) and 90% sensitivity for any re-assault. There were 39% false positives, but for purposes of a first responder screen, sensitivity was deemed more important than specificity. A study of the Lethality Assessment Protocol, which will provide prospective research data on the predictive validity of the Lethality Assessment is underway in Oklahoma. The Domestic Violence Lethality Screen for First Responders is included as Addendum 3.

ADDENDUM 5

Orders of Protection Statutes

13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure

A. "Domestic violence" means any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
2. The victim and the defendant have a child in common.
3. The victim or the defendant is pregnant by the other party.
4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.
6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:
 - (a) The type of relationship.
 - (b) The length of the relationship.
 - (c) The frequency of the interaction between the victim and the defendant.
 - (d) If the relationship has terminated, the length of time since the termination.

B. A peace officer, with or without a warrant, may arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and whether the offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person, with or without a warrant, if the officer has probable cause to believe that the offense has been

committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section 12-820.02. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm that is owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

D. If a firearm is seized pursuant to subsection C of this section, the peace officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.

E. If a firearm is seized pursuant to subsection C of this section, the victim shall be notified by a peace officer before the firearm is released from temporary custody.

F. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat or another person in the household, the prosecutor shall file a notice of intent to retain the firearm in the appropriate superior, justice or municipal court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat

or another person in the household, the court shall order the return of the firearm to the owner or possessor.

G. A peace officer is not liable for any act or omission in the good faith exercise of the officer's duties under subsections C, D, E and F of this section.

H. Each indictment, information, complaint, summons or warrant that is issued and that involves domestic violence shall state that the offense involved domestic violence and shall be designated by the letters DV. A domestic violence charge shall not be dismissed or a domestic violence conviction shall not be set aside for failure to comply with this subsection.

I. A person who is arrested pursuant to subsection B of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant.

J. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:

1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.
2. The emergency telephone number for the local police agency.
3. Telephone numbers for emergency services in the local community.

K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

L. If a person is convicted of an offense involving domestic violence and the victim was pregnant at the time of the commission of the offense, at the time of sentencing the court shall take into consideration the fact that the victim was pregnant and may increase the sentence.

M. An offense that is included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. If the defendant committed a felony offense listed in subsection A of this section against a pregnant victim and knew that the victim was pregnant or if the defendant committed a felony offense causing physical injury to a pregnant victim and knew that the victim was pregnant, the maximum sentence otherwise authorized for that violation shall be increased by up to two years.

N. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer must determine if a minor is present. If a minor is present, the peace officer must conduct a child welfare check to determine if the child is safe and if the child might be a victim of domestic violence or child abuse.

13-3601.01. Domestic violence; treatment; definition

A. The judge shall order a person who is convicted of a misdemeanor domestic violence offense to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department. If a person has previously been ordered to complete a domestic violence offender treatment program pursuant to this section, the judge shall order the person to complete a domestic violence offender treatment program unless the judge deems that alternative sanctions are more appropriate. The department of health services shall adopt and enforce guidelines that establish standards for domestic violence offender treatment program approval.

B. On conviction of a misdemeanor domestic violence offense, if a person within a period of sixty months has previously been convicted of a violation of a domestic violence offense or is convicted of a misdemeanor domestic violence offense and has previously been convicted of an act in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense, the judge may order the person to be placed on supervised probation and the person may be incarcerated as a condition of probation. If the court orders supervised probation, the court may conduct an intake assessment when the person begins the term of probation and may conduct a discharge summary when the person is released from probation. If the person is incarcerated and the court receives confirmation that the person is employed or is a student, the court, on pronouncement of any jail sentence, may provide in the sentence that the person, if the person is employed or is a student and can continue the person's employment or studies, may continue the employment or studies for not more than twelve hours a day nor more than five days a week. The person shall spend the remaining day, days or parts of days in jail until the sentence is served and shall be allowed out of jail only long enough to complete the actual hours of employment or studies.

C. A person who is ordered to complete a domestic violence offender treatment program shall pay the cost of the program.

D. If a person is ordered to attend a domestic violence offender treatment program pursuant to this section, the program shall report to the court whether the person has attended the program and has successfully completed the program.

E. For the purposes of this section, prior convictions for misdemeanor domestic violence offenses apply to convictions for offenses that were committed on or after January 1, 1999.

F. For the purposes of this section, "domestic violence offense" means an offense involving domestic violence as defined in section 13-3601.

13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff and the minor is a specifically designated person for the purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

1. Unless the party who requests the order files a written verified petition for an order.
2. Against a person who is less than twelve years of age unless the order is granted by the juvenile division of the superior court.
3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an order of protection, the protected address shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.
2. Name and address, if known, of the defendant.
3. Specific statement, including dates, of the domestic violence alleged.
4. Relationship between the parties pursuant to section 13-3601, subsection A and whether there is pending between the parties an action for maternity or paternity, annulment, legal separation or dissolution of marriage.

5. Name of the court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.
6. Desired relief.

D. A fee shall not be charged for filing a petition under this section or for service of process. On request of the plaintiff, each order of protection that is issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection that is issued by a justice of the peace shall be served by the constable or sheriff for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable or sheriff in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff, each order of protection that is issued by a superior court judge or commissioner shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and counseling services that are available in the local area.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the orders requested should issue without further hearing. The court shall issue an order of protection under subsection G of this section if the court determines that there is reasonable cause to believe any of the following:

1. The defendant may commit an act of domestic violence.
2. The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.

F. For the purposes of determining the period of time under subsection E, paragraph 2 of this section, any time that the defendant has been incarcerated or out of this state shall not be counted. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

G. If a court issues an order of protection, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more of the offenses included in domestic violence.
2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may

otherwise result. If the other party is accompanied by a law enforcement officer, the other party may return to the residence on one occasion to retrieve belongings. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph.

3. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.

4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.

5. If the order was issued after notice and a hearing at which the defendant had an opportunity to participate, require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court.

6. Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.

7. Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent or a minor child residing in the residence or household of the petitioner or the respondent, and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of section 13-2910 or otherwise disposing of the animal.

H. The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.

I. At any time during the period during which the order is in effect, a party who is under an order of protection or who is restrained from contacting the other party is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a party who is under an order of protection or who is restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing

shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order.

J. The order shall include the following statement:

Warning

This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

K. A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

L. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the order or any modified order was issued shall forward to the sheriff of the county in which the court is located a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the order. Registration of an order means that a copy of the order of protection and a copy of the affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

M. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order that is issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The law

enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For the purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

N. A person who is arrested pursuant to subsection M of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant. The agency with custody of the defendant shall make reasonable efforts to contact the victim and other specifically designated persons in the order of protection, if known to the custodial agency, who requested notification immediately on release of the arrested person from custody.

O. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that

is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal. For the purposes of this subsection, "pending" means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

P. A peace officer who makes an arrest pursuant to this section or section 13-3601 is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

Q. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an order of protection that is issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

R. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection

:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.
2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the

laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.

3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:

(a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.

(b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.

4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

ADDENDUM 6

Legal Decision Making Statutes

25-403. Legal decision-making; best interests of child (L12, ch. 309, sec. 5. Eff. 1/1/13)

A. The court shall determine legal decision-making and parenting time, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all factors that are relevant to the child's physical and emotional well-being, including:

1. The past, present and potential future relationship between the parent and the child.
2. The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.
3. The child's adjustment to home, school and community.
4. If the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time.
5. The mental and physical health of all individuals involved.
6. Which parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent. This paragraph does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.
7. Whether one parent intentionally misled the court to cause an unnecessary delay, to increase the cost of litigation or to persuade the court to give a legal decision-making or a parenting time preference to that parent.
8. Whether there has been domestic violence or child abuse pursuant to section 25-403.03.
9. The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time.
10. Whether a parent has complied with chapter 3, article 5 of this title.
11. Whether either parent was convicted of an act of false reporting of child abuse or neglect under section 13-2907.02.

B. In a contested legal decision-making or parenting time case, the court shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child.

25-403.03. Domestic violence and child abuse
(L12, ch. 309, sec. 9. Eff. 1/1/13)

A. Notwithstanding subsection D of this section, joint legal decision-making shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to section 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence.

B. The court shall consider evidence of domestic violence as being contrary to the best interests of the child. The court shall consider the safety and well-being of the child and of the victim of the act of domestic violence to be of primary importance. The court shall consider a perpetrator's history of causing or threatening to cause physical harm to another person.

C. To determine if a person has committed an act of domestic violence the court, subject to the rules of evidence, shall consider all relevant factors including the following:

1. Findings from another court of competent jurisdiction.
2. Police reports.
3. Medical reports.
4. Child protective services records.
5. Domestic violence shelter records.
6. School records.
7. Witness testimony.

D. If the court determines that a parent who is seeking sole or joint legal decision-making has committed an act of domestic violence against the other parent, there is a rebuttable presumption that an award of sole or joint legal decision-making to the parent who committed the act of domestic violence is contrary to the child's best interests. This presumption does not apply if both parents have committed an act of domestic violence. For the purposes of this subsection, a person commits an act of domestic violence if that person does any of the following:

1. Intentionally, knowingly or recklessly causes or attempts to cause sexual assault or serious physical injury.
2. Places a person in reasonable apprehension of imminent serious physical injury to any person.
3. Engages in a pattern of behavior for which a court may issue an ex parte order to protect the other parent who is seeking child custody or to protect the child and the child's siblings.

E. To determine if the parent has rebutted the presumption the court shall consider all of the following:

1. Whether the parent has demonstrated that being awarded sole or joint legal decision-making or substantially equal parenting time is in the child's best interests.
2. Whether the parent has successfully completed a batterers' prevention program.
3. Whether the parent has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.
4. Whether the parent has successfully completed a parenting class, if the court determines that a parenting class is appropriate.
5. If the parent is on probation, parole or community supervision, whether the parent is restrained by a protective order that was granted after a hearing.
6. Whether the parent has committed any further acts of domestic violence.

F. If the court finds that a parent has committed an act of domestic violence, that parent has the burden of proving to the court's satisfaction that parenting time will not endanger the child or significantly impair the child's emotional development. If the parent meets this burden to the court's satisfaction, the court shall place conditions on parenting time that best protect the child and the other parent from further harm. The court may:

1. Order that an exchange of the child must occur in a protected setting as specified by the court.
2. Order that an agency specified by the court must supervise parenting time. If the court allows a family or household member to supervise parenting time, the court shall establish conditions that this person must follow during parenting time.
3. Order the parent who committed the act of domestic violence to attend and complete, to the court's satisfaction, a program of intervention for perpetrators of domestic violence and any other counseling the court orders.
4. Order the parent who committed the act of domestic violence to abstain from possessing or consuming alcohol or controlled substances during parenting time and for twenty-four hours before parenting time.
5. Order the parent who committed the act of domestic violence to pay a fee for the costs of supervised parenting time.
6. Prohibit overnight parenting time.
7. Require a bond from the parent who committed the act of domestic violence for the child's safe return.
8. Order that the address of the child and the other parent remain confidential.
9. Impose any other condition that the court determines is necessary to protect the child, the other parent and any other family or household member.

G. The court shall not order joint counseling between a victim and the perpetrator of domestic violence. The court may provide a victim with written information about available community resources related to domestic violence.

H. The court may request or order the services of the division of children and family services in the department of economic security if the court believes that a child may be the victim of child abuse or neglect as defined in section 8-201.

I. In determining whether the absence or relocation of a parent shall be weighed against that parent in determining legal decision-making or parenting time, the court may consider whether the absence or relocation was caused by an act of domestic violence by the other parent.

**25-403.01. Sole and joint legal decision-making and parenting time
(L12, ch. 309, sec. 7. Eff. 1/1/13)**

A. In awarding legal decision-making, the court may order sole legal decision-making or joint legal decision-making.

B. In determining the level of decision-making that is in the child's best interests, the court shall consider the factors prescribed in section 25-403, subsection A and all of the following:

1. The agreement or lack of an agreement by the parents regarding joint legal decision-making.
2. Whether a parent's lack of an agreement is unreasonable or is influenced by an issue not related to the child's best interests.
3. The past, present and future abilities of the parents to cooperate in decision-making about the child to the extent required by the order of joint legal decision-making.
4. Whether the joint legal decision-making arrangement is logistically possible.

C. An order for sole legal decision-making does not allow the parent designated as sole legal decision-maker to alter unilaterally a court-ordered parenting time plan.

...

ADDENDUM 7

Parenting Time Statutes

25-403.01. Sole and joint legal decision-making and parenting time (L12, ch. 309, sec. 7. Eff. 1/1/13)

. . .

D. A parent who is not granted sole or joint legal decision-making is entitled to reasonable parenting time to ensure that the minor child has substantial, frequent, meaningful and continuing contact with the parent unless the court finds, after a hearing, that parenting time would endanger the child's physical, mental, moral or emotional health.

25-403.03. Domestic violence and child abuse (L12, ch. 309, sec. 9. Eff. 1/1/13)

. . .

F. If the court finds that a parent has committed an act of domestic violence, that parent has the burden of proving to the court's satisfaction that parenting time will not endanger the child or significantly impair the child's emotional development. If the parent meets this burden to the court's satisfaction, the court shall place conditions on parenting time that best protect the child and the other parent from further harm. The court may:

1. Order that an exchange of the child must occur in a protected setting as specified by the court.
2. Order that an agency specified by the court must supervise parenting time. If the court allows a family or household member to supervise parenting time, the court shall establish conditions that this person must follow during parenting time.
3. Order the parent who committed the act of domestic violence to attend and complete, to the court's satisfaction, a program of intervention for perpetrators of domestic violence and any other counseling the court orders.
4. Order the parent who committed the act of domestic violence to abstain from possessing or consuming alcohol or controlled substances during parenting time and for twenty-four hours before parenting time.
5. Order the parent who committed the act of domestic violence to pay a fee for the costs of supervised parenting time.
6. Prohibit overnight parenting time.
7. Require a bond from the parent who committed the act of domestic violence for the child's safe return.
8. Order that the address of the child and the other parent remain confidential.

9. Impose any other condition that the court determines is necessary to protect the child, the other parent and any other family or household member.

G. The court shall not order joint counseling between a victim and the perpetrator of domestic violence. The court may provide a victim with written information about available community resources related to domestic violence.

H. The court may request or order the services of the division of children and family services in the department of economic security if the court believes that a child may be the victim of child abuse or neglect as defined in section 8-201.

I. In determining whether the absence or relocation of a parent shall be weighed against that parent in determining legal decision-making or parenting time, the court may consider whether the absence or relocation was caused by an act of domestic violence by the other parent.

ADDENDUM 8

Domestic Violence Risk Assessment Bench Guide

*A research-based bench guide for use by Minnesota judges
at all stages of family, Order for Protection, civil or criminal involving domestic violence*

Note: The **presence** of these factors can indicate **elevated risk** of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

1. Does alleged perpetrator have access to a **firearm**, or is there a firearm in the home?
2. Has the alleged perpetrator ever used or threatened to use a **weapon** against the victim?
3. Has alleged perpetrator ever attempted to **strangle** or choke the victim?
4. Has alleged perpetrator ever **threatened to or tried to kill** the victim?
5. Has the physical **violence increased in frequency or severity** over the past year?
6. Has alleged perpetrator **forced** the victim to have **sex**?
7. Does alleged perpetrator try to **control** most or all of victim's **daily activities**?
8. Is alleged perpetrator constantly or violently **jealous**?
9. Has alleged perpetrator ever threatened or tried to commit **suicide**?
10. Does the **victim believe** that the alleged perpetrator will re-assault or attempt to kill the victim? *A "no" answer does not indicate a low level of risk, but a "yes" answer is very significant*
11. Are there any pending or prior Orders for Protection, criminal or civil cases involving this alleged perpetrator?

These risk assessment factors are validated by a number of studies. See Campbell, Jacquelyn, et al, "Intimate Partner Violence Risk Assessment Validation Study: The RAVE Study Practitioner Summary and Recommendations: Validation of Tools for Assessing Risk from Violent Intimate Partners", National Institute of Justice (December, 2005); Heckert and Gondolf, "Battered Women's Perceptions of Risk Versus Risk Factors and Instruments in Predicting Repeat Reassault", Journal of Interpersonal Violence Vol 19, No 7 (July 2004).

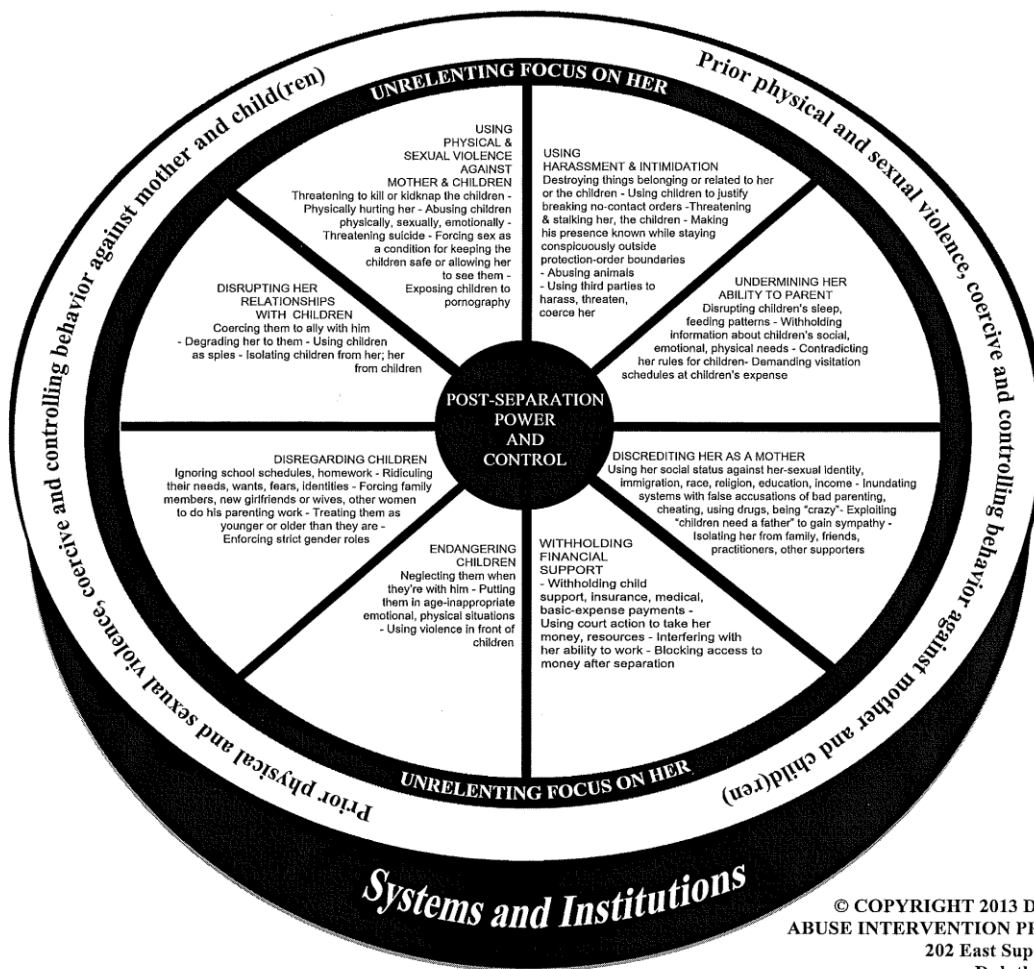
How To Use The Domestic Violence Risk Assessment Bench Guide

- **Obtain information regarding these factors through all appropriate and available sources**
 - Potential sources include police, victim witness staff, prosecutors, defense attorneys, court administrators, bail evaluators, pre-sentence investigators, probation, custody evaluators, parties and attorneys
- **Communicate to practitioners that you expect that complete and timely information on these factors will be provided to the court**
 - This ensures that risk information is both sought for and provided to the court at each stage of the process and that risk assessment processes are institutionalized
 - Review report forms and practices of others in the legal system to ensure that the risk assessment is as comprehensive as possible
- **Expect consistent and coordinated responses to domestic violence**
 - Communities whose practitioners enforce court orders, work in concert to hold alleged perpetrators accountable and provide support to victims are the most successful in preventing serious injuries and domestic homicides
- **Do not elicit safety or risk information from victims in open court**
 - Safety concerns can affect the victim's ability to provide accurate information in open court
 - Soliciting information from victims in a private setting (by someone other than the judge) improves the accuracy of information and also serves as an opportunity to provide information and resources to the victim
- **Provide victims information on risk assessment factors and the option of consulting with confidential advocates**
 - Information and access to advocates improves victim safety and the quality of victims' risk assessments and, as a result, the court's own risk assessments
- **Note that this list of risk factors is not exclusive**
 - The listed factors are the ones most commonly present when the risk of serious harm or death exists
 - Additional factors exist which assist in prediction of re-assault
 - Victims may face and fear other risks such as homelessness, poverty, criminal charges, loss of children or family supports
- **Remember that the level and type of risk can change over time**
 - The most dangerous time period is the days to months after the alleged perpetrator discovers that the victim
 - might attempt to separate from the alleged perpetrator or to terminate the relationship
 - has disclosed or is attempting to disclose the abuse to others, especially in the legal system

ADDENDUM 9

Post-separation Abuse Involving the Use of Children

Post Separation Power and Control Wheel



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202 East Superior Street
Duluth, MN 55802
218-722-2781
www.theduluthmodel.org

ADDENDUM 10

ACE Questionnaire

Finding Your ACE Score

While you were growing up, during your first 18 years of life:

1. Did a parent or other adult in the household often or very often... Swear at you, insult you, put you down, or humiliate you? or Act in a way that made you afraid that you might be physically hurt?

Yes No If yes enter 1

2. Did a parent or other adult in the household often or very often... Push, grab, slap, or throw something at you? or Ever hit you so hard that you had marks or were injured?

Yes No If yes enter 1

3. Did an adult or person at least 5 years older than you ever... Touch or fondle you or have you touch their body in a sexual way? or Attempt or actually have oral, anal, or vaginal intercourse with you?

Yes No If yes enter 1

4. Did you often or very often feel that... No one in your family loved you or thought you were important or special? or Your family didn't look out for each other, feel close to each other, or support each other?

Yes No If yes enter 1

5. Did you often or very often feel that... You didn't have enough to eat, had to wear dirty clothes, and had no one to protect you? or Your parents were too drunk or high to take care of you or take you to the doctor if you needed it?

Yes No If yes enter 1

6. Were your parents ever separated or divorced?

Yes No If yes enter 1

7. Was your mother or stepmother: Often or very often pushed, grabbed, slapped, or had something thrown at her? or Sometimes, often, or very often kicked, bitten, hit with a fist, or hit with something hard? Or Ever repeatedly hit at least a few minutes or threatened with a gun or knife?

Yes No If yes enter 1

8. Did you live with anyone who was a problem drinker or alcoholic or who used street drugs?

Yes No If yes enter 1

9. Was a household member depressed or mentally ill, or did a household member attempt suicide?

Yes No If yes enter 1

10. Did a household member go to prison?

Yes No If yes enter 1

Now add up your "Yes" answers: _____. This is your ACE Score.