

Dangerousness-Lethality Assessment Guide

A research-based guide for systems interacting with families experiencing domestic violence.

The escalation of domestic violence to a highly dangerous/potentially lethal level follows a pattern with identifiable indicators¹.

If it is identifiable, it is predictable.

This guide will help professionals move through the following four steps in assessing domestic violence perpetrators for highly dangerous/potentially lethal behaviors and provide an effective response that heightens both safety measures for victims and accountability for highly dangerous/potentially lethal perpetrators:

1

Understand the nature and extent of the domestic violence.

Prior training on the recognizing the differing contexts of domestic violence is critical in assessing the impact on families. Differentiating context of domestic violence involves asking who is doing what to whom and with what impact:

- Coercive controlling violence
- Resistive violence—produced and shaped by coercive control
- Non-coercive controlling violence

2

Identify highly dangerous/potentially lethal behaviors.

This guide will assist you in how to gather specific information and ask specific questions to determine if there are indicators for highly dangerous/potentially lethal behaviors. The best predictions of risk are a combination of victim's prediction of risk and a risk evaluation instrument (Gondolf and Heckert, 2004).

3

Provide a heightened response when indicators are present.

Provide immediate safety planning and/or referrals for victim(s). Increase measures to contain highly dangerous/potentially lethal behaviors of perpetrator.

4

Coordinate responses across systems.

Coordinating assessments and responses is best practice for achieving victim safety and containing perpetrator behaviors. Remember confidentiality procedures/limitations applicable to your discipline when sharing information. Confidentiality is connected to victim safety.

¹These indicators are validated by a number of studies. See Campbell, Jacquelyn, et al, "Intimate Partner Violence Risk Assessment Validations Study: The RAVE Study Practitioner Summary and Recommendations: Validation of Tools for Assessing Risk from Violence 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).

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Why should we assess for indicators of highly dangerous/potentially lethal indicators in domestic violence cases?

A consistent, research based process will:

- Provide a more accurate basis for effective safety planning with victims and accountability for perpetrators;
- Alleviate potentially inaccurate assumptions about dangerousness and lethality;
- Provide a process for communicating potentially dangerous indicators across systems;
- Help professionals gather critical information and put individual incidents of violence into context to make decisions about how to respond; and
- Can SAVE LIVES.

Before assessing for indicators, it is important to understand the nature and extent of the domestic violence. While the legal definition of domestic violence meets a standard defined in WV statutes, families may experience behaviors that is contextually different and broader than the legal definition. Researchers have found that behaviors typically classified as domestic violence can look like:

Coercive controlling violence—include patterned behaviors such as physical, sexual, psychological/emotional and financial abuse, intimidation, threats, isolation, using children, using privilege, and minimization. The person using this type of violence has power over others in the family and operates from a belief that they are entitled to use such tactics of control.

Resistive violence—is produced and shaped by coercive controlling violence. Victims of coercive controlling violence resist or “fight back” in self defense and/or use passive violence or retaliatory violence.

Non-coercive controlling violence—is violence between intimate partners or family members that does not include a pattern of behaviors where one person controls or has power over other members of the family.

Considerations When Assessing Indicators:

- Lack of indicators does not guarantee a victim is safe.
- Expert judgment should guide intervention when danger is perceived.
- Indicators should never be used to limit services.
- Understanding indicators is an ongoing process—not a one time assessment.
- Consider victim protective strategies as well as danger indicators.

“In the (intimate partner) femicide study, the majority of victims or perpetrators (up to 83%) or both had contact with criminal justice, victim assistance and/or health care agencies in the year prior to the homicide.

(Campbell, J., PhD, R.N., F.A.A.N., Johns Hopkins University, *Intimate Partner Homicide: Review and Implications of Research and Policy*)

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1 Once the scene is secure, determine the nature and extent of the domestic violence.

2 Gather information on indicators for highly dangerous/potentially lethal behaviors of perpetrator. Gather information from victim, offender, records, prior complaints, criminal history, dispatch, and Domestic Violence Registry.

In addition to information gathered above, assess for indicators in victim interview (see Dangerous/Lethality Information Form for Law Enforcement Officers)

Indicators	Questions for Victim Interview
Possession/use of weapons	Has he/she ever used a weapon against you?
	Has he/s ever threatened you with a weapon?
	Does he/she have a gun or can he/she get one easily?
Direct threats to kill– Victim perceived that offender might kill him/her	Has he/she threatened to kill you or your children?
	Do you think that he/she might try to kill you?
	Has he/she ever tried to kill himself?
Strangulation/choking	Has he/she ever tried to choke you?
Stalking	Does he/she follow or spy on you or leave threatening messages?
Intrusive coercive control	Is he/she violently or constantly jealous or does he/she control most of your daily activities?
Forced sex	Has he or she forced you to have sex when you did not wish to do so?
Victim has left/attempting to leave the relationship	Have you left him/her or separated after living together or being married?
Offender is unemployed	Is he/she unemployed?
Victim has child not the offender's biological child	Do you have a child that he/she know is not his/ hers?
Violence is escalating	Have your concerns of his/her behavior increased in the past few months?
Substance abuse may exacerbate danger	Are you concerned about his/her history with drugs or alcohol?
Is there anything else that worries you about your safety?	

If indicators of highly dangerous/potentially lethal behaviors are present,:

- Attach the Dangerousness/Lethality Information Sheet to the report.
Summarize highly dangerous/potentially lethal indicators on the complaint.
- Provide a heightened response (next page).

Law Enforcement

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- 3** If there are any past or present indicators for highly dangerous, potentially lethal behaviors, consider the following heightened responses to:

Increase Safety for Victim	Reduce Dangerousness of Offender
<ul style="list-style-type: none"> Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety. Discuss heightened safety options with victim: <ul style="list-style-type: none"> <u>Immediate</u> referral to a domestic violence advocate—if phone is available, and victim agrees, make contact with advocate on scene. <u>Immediate</u> transportation to a shelter (utilizing shelter intake protocol) or other safe place <u>Immediate</u> referral for domestic violence protection order Conduct follow up investigation (§149-3-6.7.2) Indicators for adult victims are also indicators for substantial risk of harm to children. Follow model protocol for responding to risk of harm to children. Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37) 	<ul style="list-style-type: none"> <u>Immediate arrest</u> with follow-up investigation—increase the depth of the investigation Consider supplemental or other appropriate charges for the crime when they apply (following §149-3-7): <ul style="list-style-type: none"> malicious or unlawful wounding if strangulation present, Attempted murder, wanton endangerment if using a loaded firearm, sexual assault/abuse if forced sex, stalking, child abuse Child endangerment Non-DV specific charges Arrest for violation of bond conditions (§62-1C-17c(d) -Affidavit Alleging Violation of Bond Condition) Discuss with the perpetrator the impact and dangerousness of behaviors on adult victim and children when appropriate. Make CPS or APS referral

- 4** **System Collaboration**
- Summarize highly dangerous/potentially lethal behaviors on complaint to communicate probable cause and potential risk to magistrate.
 - Verify bond conditions with clerk of court or on-duty magistrate
 - Appear at pre-trial hearing.
 - Report substantial risk of harm to CPS/APS —identify indicators on referral form/verbal report.
 - Ensure prosecutor's office is aware of behaviors.
 - Refer to and follow up with community and system based advocates.

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- 1 When talking with potential victims of domestic violence, determine the nature and extent of the domestic violence.
- 2 Gather information on indicators for highly dangerous/potentially lethal behaviors of perpetrators. Information can be gathered from victim, and other records if available (i.e. law enforcement report, arrest records, DVPO's, criminal backgrounds, etc.)

Victim interview:

Indicators	Questions for Victim Interview
Possession/use of weapons	Has he/she ever used a weapon against you?
	Has he/s ever threatened you with a weapon?
	Does he/she have a gun or can he/she get one easily?
Direct threats to kill– Victim perceived that offender might kill him/her	Has he/she threatened to kill you or your children?
	Do you think that he/she might try to kill you?
	Has he/she ever tried to kill himself?
Strangulation/choking	Has he/she ever tried to choke you?
Stalking	Does he/she follow or spy on you or leave threatening messages?
Intrusive coercive control	Is he/she violently or constantly jealous or does he/she control most of your daily activities?
Forced sex	Has he or she forced you to have sex when you did not wish to do so?
Victim has left/attempting to leave the relationship	Have you left him/her or separated after living together or being married?
Offender is unemployed	Is he/she unemployed?
Victim has child not the offender's biological child	Do you have a child that he/she know is not his/ hers?
Violence is escalating	Have your concerns of his/her behavior increased in the past few months?
Substance abuse may exacerbate danger	Are you concerned about his/her history with drugs or alcohol?
	Is there anything else that worries you about your safety?

Advocate

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Maintain confidentiality of information obtained to the extent allowed by law

All Advocates are mandated reporters to child and adult protective services. System based advocates: inform victim that information obtained is not confidential but is shared with the system you represent (i.e. prosecutor, law enforcement, federal agency.) Community based advocates: inform victim that information is confidential unless the victim signs a release or a court order is obtained for a release of records.

If indicators for highly dangerous, potentially lethal behaviors are present, consider the following enhanced responses to:

3

Increase Safety for Victim

- Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety -Indicators for adult victims are also indicators for substantial risk of harm to children.
- Initiate immediate safety options with victim:
 - Safe accommodations if offender is not incarcerated
 - Benefits and limitations of DVPO
 - Benefits and limitations of criminal bond conditions
 - Options if offender locates victim (i.e. at home, work, school, car, etc.
- Advocate with victim in immediate civil system protections(protection order process; child protection process—explain co-petitioning and battered parent adjudication)
- Advocate with victim in the criminal justice system:
 - Gather information on charges filed and bond conditions
 - Connect victim with prosecutor's office (victim advocate if available) to discuss safety concerns related to prosecution
- Discuss follow up with victim—including accompaniment with law enforcement follow-up
- Inform victim of the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37)

4

System Collaboration

- System based advocates (community based advocates with appropriate confidentiality releases): communicate safety concerns to law enforcement, prosecutor, federal agency for use in charging, sentencing, bond conditions.
- Encourage system assessment for highly dangerous/potentially lethal indicators.
- System based advocates (community based advocates with appropriate confidentiality releases) document information that could be evidence for forfeiture by wrong doing
- Report substantial risk of harm to CPS/APS and document indicators on verbal/written report
- Refer to and follow up with other community and system based advocates.

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Magistrate

- 1 In proceedings involving domestic violence, observe for the nature and extent of the domestic violence.
- 2 Look in the complaint for indicators for highly dangerous/potentially lethal behavior from victim, and other evidence if available (i.e. law enforcement report, arrest records, criminal backgrounds, etc.). If the officer is present, ask what they observed. In EPO proceedings, gather information from victim.

Researched indicators of highly dangerous/potentially lethal behaviors.

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.

Possession, access and use of weapons and/or possession of weapon when prohibited.
Direct Threats to Kill—anyone in the family, including self
Victim perceives that offender might kill her/him
Stalking behavior—following victim, leaving threatening/intimidating messages, following victim's family/friends, soliciting others to follow victim or check up on victim, electronic monitoring
Strangulation (choking) - restriction of airway/blood flow
Intrusive coercive control (i.e. control most of daily activities, constant monitoring, controlling personal autonomy, violently or constantly jealous)
Forced sex
Victim is has left or is attempting to leave the relationship
Offender is unemployed
Victim has a child that is not the offenders biological child
Violence is escalating
Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

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- 3** If indicators for highly dangerous, potentially lethal behaviors are present, consider the following enhanced responses to:

Increase Safety for Victim

When the victim is present (EPO proceedings or if they appear in criminal proceedings):

- Review the petition and listen to the victim for highly dangerous/potentially lethal indicators
- Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety - Indicators for adult victims are also indicators for substantial risk of harm to children.
- Discuss Immediate referral to a domestic violence advocate and advocate at the prosecutor's office (or prosecutor in the absence of prosecutor based advocate
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37)

Reduce Dangerousness of Offender

When setting bond consider:

- Setting high property or cash bond—not PR
- Setting bond conditions of no contact with victim (62-1C-17c)
- Setting home confinement with GPS - confirm where perpetrator will be living separate from victim
- Setting additional pre-trial hearing to assure compliance with bond conditions (put this in prosecution section also)
- Cross reference DV registry when arraigned for EPO or DVPO for outstanding service

When sentencing consider:

- Appropriate sentence considering high potential for lethality such as:
 - Jail time,
 - home confinement (not in home with victim)
 - Home confinement with GPS
 - suspended jail with day report or community corrections
- Plea agreements in cases with highly dangerous/potentially lethal indicators are discouraged
- Pretrial diversion not permitted in any DV case - §61-11-22(d and e)

EPO proceedings

- Locate and seize all firearms listed on EPO petition
- Check DV registry and criminal history before issuing 3rd party transfer of firearms

In any proceeding

- Discuss with the perpetrator the impact and dangerousness of behaviors on adult victim and children when appropriate.
- Make CPS or APS referral —check for existing custody or abuse and neglect case

4

System Collaboration

- Report substantial risk of harm to CPS—indicate indicators for highly dangerous/potentially lethal behaviors of perpetrator on referral form.
- Refer to community and system based advocates. Time and safe space before/after proceedings for advocates to talk with victims can improve safety.
- Communicate bond conditions to law enforcement
- Gather evidence of indicators officer observed at scene.
- Understand how other systems assess for indicators.
- Flag EPO for expedited service and officer safety

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- 1 In proceedings involving domestic violence, determine the nature and extent of the domestic violence.
- 2 Observe for indicators for highly dangerous/potentially lethal behavior from victim, and other evidence available—pursuant to Chapter §48-27-505 (i.e. law enforcement report, arrest records, DVPO's, criminal history, etc.)

Researched indicators of highly dangerous/potentially lethal behaviors.

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.

Possession, access and use of weapons and/or possession of weapon when prohibited.
Direct Threats to Kill—anyone in the family, including self
Victim perceives that offender might kill her/him
Stalking behavior—following victim, leaving threatening/intimidating messages, following victim's family/friends, soliciting others to follow victim or check up on victim, electronic monitoring
Strangulation (choking) - restriction of airway
Intrusive coercive control (i.e. control most of daily activities, constant monitoring, controlling personal autonomy, violently or constantly jealous)
Forced sex
Victim is has left or is attempting to leave the relationship
Offender is unemployed
Victim has a child that is not the offenders biological child
Violence is escalating
Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

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3

If indicators for highly dangerous, potentially lethal behaviors are present, consider the following enhanced responses to:

Increase Safety For Victim

- Identify highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety - Indicators for adult victims are also indicators for substantial risk of harm to children.
- Discuss Immediate referral to a domestic violence advocate.
- Do not elicit safety or risk information from victims in open court.
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37)

Reduce Dangerousness of Offender

DVPO Proceedings:

- Conduct compliance hearings to ensure perpetrator is abiding by order and firearms prohibitions are being followed.
- In contempt proceedings for violations of the DVPO, place perpetrator in custody until compliance is obtained (i.e. payment of child support in arrears)
- Conduct hearing before dismissing DVPO.
- Attach petition for return of firearms to the final order in the civil domestic violence case.

Dangerous/lethality indicators create substantial risk of harm to children.

Visitation proceedings:

- Order supervised visitation.
- Use third party transportation for visitation.
- Use visitation and exchange centers.
- Order no visitation.

In any proceeding, refer to CPS/APS

4

System Collaboration

- Report substantial risk of harm to CPS—indicate indicators for highly dangerous/potentially lethal behaviors of perpetrator on referral form.
- Refer to community and system based advocates. Time and safe space before/after proceedings for advocates to talk with victims can improve safety.
- Consider ordering law enforcement to provide safety check on petitioner if they do not appear at DVPO proceedings.
- Understand how other systems assess for indicators.

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- 1 In proceedings involving domestic violence, determine the nature and extent of the domestic violence.
- 2 **Observe for** indicators for highly dangerous/potentially lethal behavior from victim, and other records **if available** (i.e. law enforcement report, arrest records, DVPO's, criminal backgrounds, etc.)

Researched indicators of highly dangerous/potentially lethal behaviors.

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.

Possession, access and use of weapons and/or possession of weapon when prohibited.
Direct Threats to Kill—anyone in the family, including self
Victim perceives that offender might kill her/him
Stalking behavior—following victim, leaving threatening/intimidating messages, following victim's family/friends, soliciting others to follow victim or check up on victim, electronic monitoring
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Victim is has left or is attempting to leave the relationship
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Victim has a child that is not the offenders biological child
Violence is escalating
Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

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3

If indicators for highly dangerous, potentially lethal behaviors are present, consider the following enhanced responses:

For Victim	For Offender
<ul style="list-style-type: none"> Identify highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety - Indicators for adult victims are also indicators for substantial risk of harm to children. Discuss <u>Immediate</u> referral to a domestic violence advocate Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37) 	<p>Child abuse and neglect proceedings:</p> <ul style="list-style-type: none"> Highly dangerous/potentially lethal behaviors create substantial risk of harm to children that could rise to the level of aggravated circumstances <p>Criminal proceedings</p> <ul style="list-style-type: none"> Consider supplemental or other appropriate charges for the crime when they apply (following §149-3-7): <ul style="list-style-type: none"> malicious or unlawful wounding if strangulation present, Attempted murder, wonton endangerment if using a loaded firearm, sexual assault/abuse if forced sex, stalking, child abuse Child endangerment Non-DV specific charges Bond reduction is not recommended When indicators are present, plea agreements are discouraged Pretrial diversion not permitted in any DV case -§61-11-22(d and e) Inquire about indicators in Probation reports

4

System Collaboration

- Refer to community and system based advocates. Time and safe space before/after proceedings for advocates to talk with victims can improve safety.
- Consider ordering law enforcement to provide safety check on petitioner if they do not appear at proceedings.
- Understand how other systems assess for indicators.

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Prosecutor

- 1 In proceedings involving domestic violence, determine the nature and extent of the domestic violence.
- 2 Gather information on indicators for highly dangerous potentially lethal behaviors of perpetrator (i.e. law enforcement report, arrest records, DVPO's, criminal backgrounds, social media, jail phone records, etc.). When interviewing the victim, illicit specific information on these indicators.

Researched indicators of highly dangerous/potentially lethal behaviors.

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.

Possession, access and use of weapons and/or possession of weapon when prohibited.
Direct Threats to Kill—anyone in the family, including self
Victim perceives that offender might kill her/him
Stalking behavior—following victim, leaving threatening/intimidating messages, following victim's family/friends, soliciting others to follow victim or check up on victim, electronic monitoring
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Victim has a child that is not the offenders biological child
Violence is escalating
Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

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3

If indicators for highly dangerous, potentially lethal behaviors are present, consider the following enhanced responses to:

Increase Victim Safety

Make contact with the victim as soon as possible to:

- Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety - Indicators for adult victims are also indicators for substantial risk of harm to children.
- Explain the court process to victim emphasizing how the process has been influenced by the presence of the highly dangerous/potentially lethal indicators of offender.
- Discuss impact of court process on victim safety.
- Discuss Immediate referral to a domestic violence advocate
- Make victim aware of any bond conditions

Reduce Dangerousness of Offender

Child abuse and neglect proceedings:

- Inquire with CPS—if referral was made, consider filing Abuse/Neglect petition
- Highly dangerous/potentially lethal behaviors create substantial risk of harm to children that could rise to the level of aggravated circumstances

Criminal proceedings

- Consider supplemental or other appropriate charges for the crime when they apply (following §149-3-7):
 - malicious or unlawful wounding if strangulation present,
 - Attempted murder,
 - wonton endangerment if using a loaded firearm,
 - sexual assault/abuse if forced sex,
 - stalking,
 - child abuse
 - Child endangerment
 - Non-DV specific charges
- Argue against bond reduction
- File violation of bond conditions when indicated
- When indicators are present, plea agreements are discouraged
- Pretrial diversion not permitted in any DV case -§61-11-22(d and e)

4

System Collaboration

- Refer to and follow up with community and system based advocates
- Include highly dangerous/potentially lethal behaviors in any motion or arguments made before the court
- Work with the magistrate to hold additional pre-trial
- Understand how other systems assess for indicators.

Dangerousness-Lethality Information Form

For use by law enforcement officers

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Once the scene is secure, determine the nature and extent of the domestic violence.

Gather information on indicators for highly dangerous/potentially lethal behavior from victim, offender, records, dispatch, and Domestic Violence Registry.

This form is for the officer to complete while interviewing the victim. Attach this form to the report and summarize relevant information on the complaint.

Inform the victim that the form will be included in the police report. (Keeping the victims informed about the process can aid in their personal safety planning.)

Has he/she ever used a weapon against you?	Yes No Not answered
Has he/s ever threatened you with a weapon?	Yes No Not answered
Does he/she have a gun or can he/she get one easily?	Yes No Not answered
Has he/she threatened to kill you or your children?	Yes No Not answered
Do you think that he/she might try to kill you?	Yes No Not answered
Has he/she ever tried to kill himself?	Yes No Not answered
Has he/she ever tried to choke you?	Yes No Not answered
Does he/she follow or spy on you or leave threatening messages?	Yes No Not answered

Continue on back

Dangerousness-Lethality Information Form

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For use by law enforcement officers

Is he/she violently or constantly jealous or does he/she control most of your daily activities?	Yes No Not answered
Has he or she forced you to have sex when you did not wish to do so?	Yes No Not answered
Have you left him/her or separated after living together or being married?	Yes No Not answered
Is he/she unemployed?	Yes No Not answered
Do you have a child that he/she know is not his/hers?	Yes No Not answered
Have your concerns of his/her behavior increased in the past few months?	Yes No Not answered
Is there anything else that worries you about your safety?	Yes No Not answered

Summary of highly dangerous/potentially lethal behaviors if found:

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