



Dead Reckoning



The Attorney's Role in Managing Dangerousness & Lethality in Domestic Violence Cases



Agenda



Why Assess Dangerousness/Lethality?

The Nature & Extent of DV

Understanding the Indicators

Providing a Heightened Response

Coordinating Responses





This training was made possible by Grant Number 2009-WE-AX-0009 from the Office on Violence Against Women, U.S. Department of Justice. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the U.S. Department of Justice.





Why Should We Assess Dangerousness/Lethality?

- Risk from DV is not assessed consistently
- No formal process of communicating risk
- Assumptions: e.g. in most lethal cases, victims will seek shelter



Why Assess Dangerousness/Lethality



Why Should We Assess Dangerousness/Lethality?

- Decisions are only as good as the information we have to base them on
- Puts individual incidents of violence into context
- Research shows we can save lives.





Intimate Partner Homicides

- 1,500 DV fatalities a year in U.S.
- Police had previously been on scene in 50% of DV homicides
- Only 4% of DV homicide victims had ever availed themselves of DV services
- Re-assault dropped by 60% when victims went into shelter





Intimate Partner Homicides – WV

Oct 2014 – Sept 2015

- 38 Deaths:
- 30 Adult victims of DV Homicide
- 3 DV related deaths by legal intervention
- 5 DV related perpetrator suicides

Oct 2015-Sept 2016

- 25 Deaths
- 18 Adult victims of DV Homicide
- 4 DV related deaths by legal intervention
- 3 DV related perpetrator suicides

Why Assess Dangerousness/Lethality



- The escalation of DV to a lethal level follows an identifiable pattern with identifiable indicators.

Campbell, J., Webster, D., Kozel-McClain, J., Block, C., Campbell D., Curry, M., et.al. (2003) Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study. American Journal of Public Health 93(7)1069-1097



Why Assess Dangerousness/Lethality



- “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...This indicates opportunities for prevention by identification of women at risk and appropriate intervention

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



Why Assess Dangerousness/Lethality



- "...there are approximately NINE near-lethal incidents for every intimate partner homicide (IPH)."

Campbell, J., Glass, N., Sharps, P., Langhon, K., & Bloom, T., (2007), Intimate Partner Homicide: Review and Implications of Research and Policy. Trauma, Violence and Abuse 8(3), 246-269



Why Assess Dangerousness/Lethality



WV Model

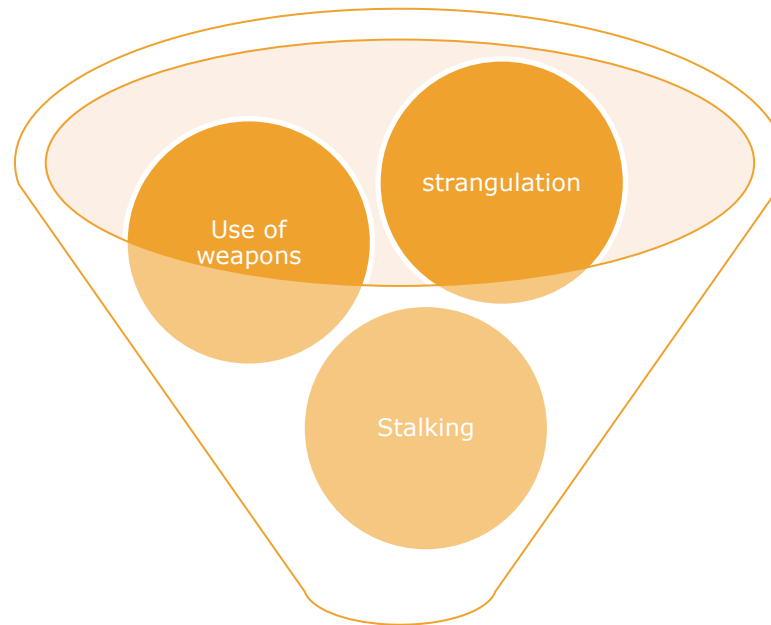


- Based on evidenced based models
- Adapted for rural settings
- Provides “Dangerousness/Lethality Assessment Guide” (DLAG) for use by all responders across civil/criminal systems
- Will collect data to evaluate effectiveness





All Domestic Violence Cases



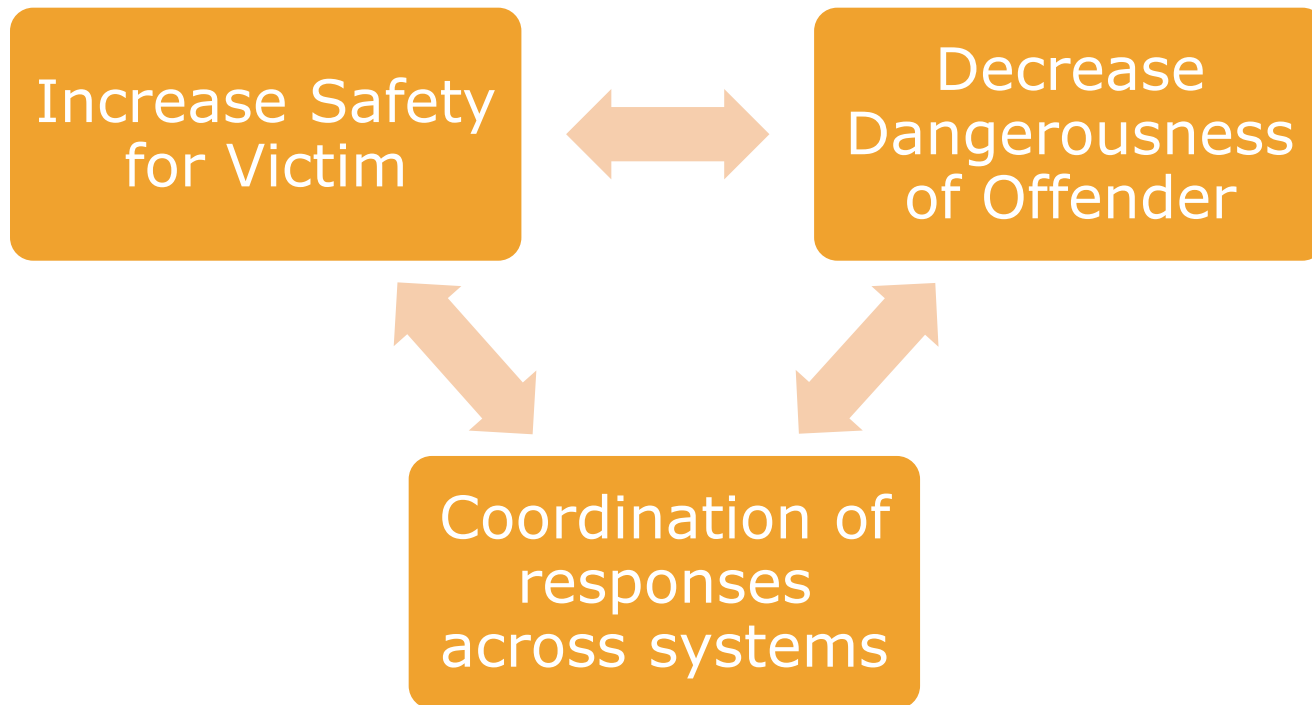
**Highly Dangerous/Potentially
Lethal Cases**



WV Model



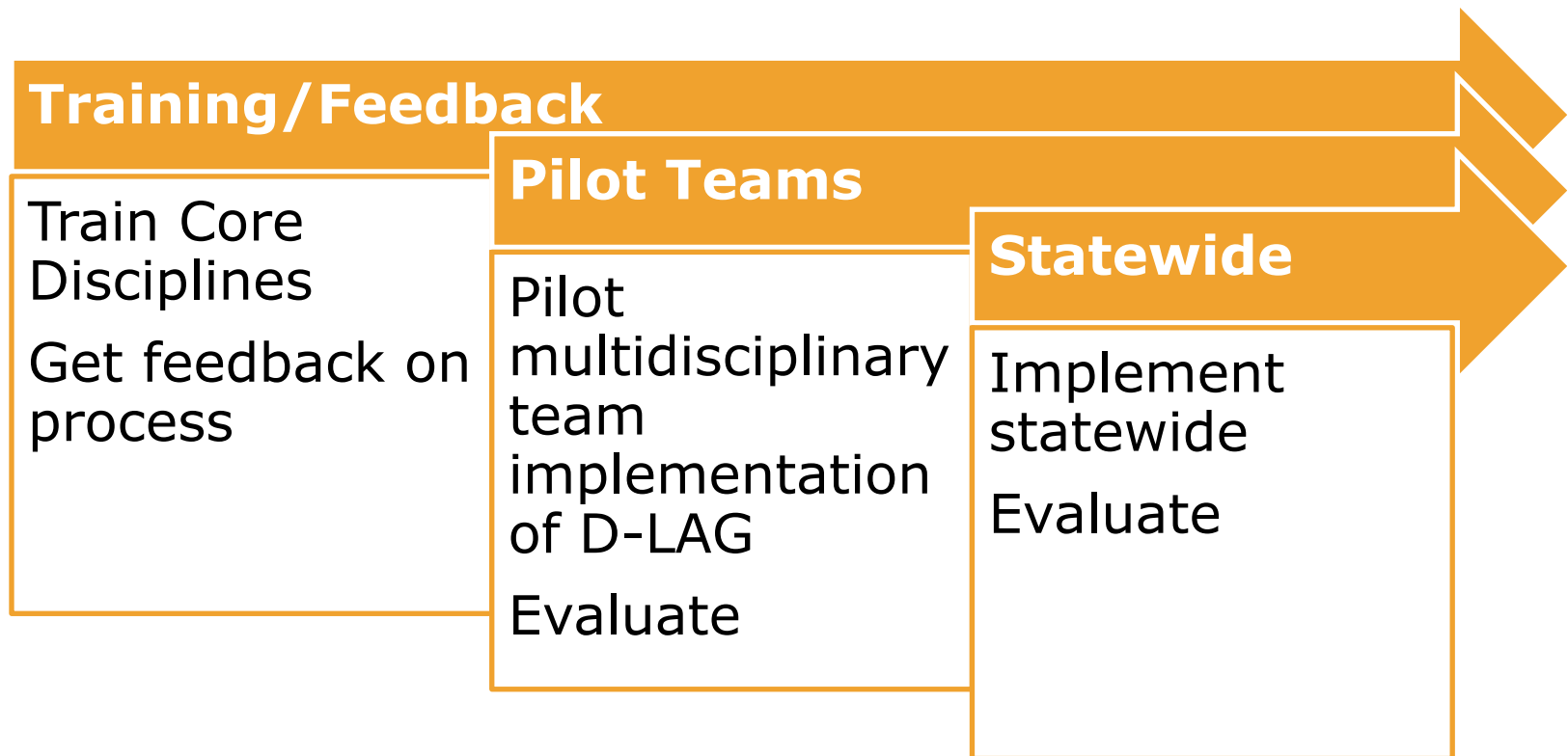
Assessing for Dangerousness/Lethality Informs the System



WV Model



Plan for Implementing WV Model



WV Model



We want your feedback



WV Model



1

Understand the nature and extent of the DV

2

Identify highly dangerous/potentially lethal behaviors

3

Provide heightened response when indicators are present

4

Coordinate responses across systems



WV Model



What is the goal?

Prevent domestic violence related
fatalities and near fatalities



1



**UNDERSTAND THE
NATURE AND EXTENT OF
THE DOMESTIC VIOLENCE**



1

Understand the Nature and Extent of the DV

- Legal Definitions focus on “Snapshot” and physical threats or harm
- Behavioral Definition – focus on “video” pattern of behaviors experienced by families



1

Understand the Nature and Extent of the DV

Understanding Context

Coercive Controlling Abuse

- **Patterned**
- **Intimidation**
- **Dominance**
- **Entitlement**

Violent Resistance

- **Produced and shaped by coercive controlling abuse**

Non-Coercive Controlling Abuse

- **Unrelated to coercive controlling abuse**



1

Understand the Nature and Extent of the DV

INTENT

MEANING

EFFECT

Who is doing what to whom and with what impact?





IDENTIFY THE DANGER SIGNS



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Possession, access and use of weapons

- Perpetrator threats/use of weapons (in history of abuse)
- Possess weapons and prohibited to possess



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Threats to kill

- Direct threats
- In Homicide/suicide, history of poor mental health of perpetrator significant



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Victim perceives offender
might kill her/him

- Not all victims accurately perceive their risk for lethality
- If victim perceives risk, take it serious



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Strangulation

- “choking” more common term
- Ultimate form of power and control
- Unconsciousness may occur within seconds and death within minutes



New WV Strangulation Law



§61-2-9d. Strangulation; definitions; penalties.

- (a) As used in this section:
 - (1) “Bodily injury” means substantial physical pain, illness or any impairment of physical condition;
 - (2) “Strangle” means knowingly and willfully restricting another person’s air intake or blood flow by the application of pressure on the neck or throat;
- (b) Any person who strangles another without that person’s consent and thereby causes the other person bodily injury or loss of consciousness is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,500 or imprisoned in a state correctional facility not less than one year or more than five years, or both fined and imprisoned.



Identify Highly Dangerous/ Potentially Lethal Behaviors

Stalking behavior

- Following victim, family/friends
- leaving threatening/intimidating messages
- Soliciting others to follow or message
- Electronic monitoring
- **76% of IP femicide victims were stalked**



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Intrusive coercive control

- Control of most daily activities
- Constant monitoring
- Controlling personal autonomy
- Violently or constantly jealous



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Forced sex

- May be difficult for some victims to discuss



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Victim has left/attempting to leave

- Especially in first three months
- One behavior of victim (other indicators are perpetrator behaviors)
- Often behavior thought to increase safety – actually increases lethality
- Or perpetrator left – victim has new boyfriend or refuses to reconcile



Offender is unemployed

- Unemployed – and perpetrator of battering
- Not an indicator for risk assessment tools



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Victim has child
not perpetrators biological child

- Possibly jealousy trigger
- Not an indicator for risk assessment tools



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Violence is escalating

- Violence happening more frequently
- Violence more severe
- More significant in the past 1-2 years



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Substance abuse

- May exacerbate highly dangerous potentially lethal behaviors
- May impair victim safety planning when used by victims



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Additional Considerations

- Lack of indicators does not guarantee victim is safe
- Expert judgment should guide intervention when danger is perceived
- Indicators should never be used to limit services



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Additional Considerations

- Understanding indicators is an ongoing process – not a one time assessment
- Consider victim protective strategies as well as danger indicators



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Assessment Goals

- Prevention more than prediction
 - Safety measures, access to advocacy, increased resources
 - Increased containment of offender, higher bail, swift and certain consequences
 - Surveillance, monitoring, court conditions



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Gather Information on Indicators

- The more sources of information, the better
- Perpetrators may minimize behaviors
- Understand how trauma and risks from legal proceedings impact victim behaviors



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Gathering information: Attorneys

- Victim interview – for interview guide:
- <http://www.bwjp.org/our-work/projects/national-child-custody-project.html>
- [Practice Guides for Family Court Decision-Making in Domestic Abuse-Related Child Custody Matters](#)



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Gathering information: Attorneys

- Other records: police report, arrest records, DVPO, criminal background, etc.
- GAL – medical, CPS, education and counseling records
- Other ways?



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

20/20
Video



2

Identify Highly Dangerous/ Potentially Lethal Behaviors

Based on 20/20 video:

Were there any behaviors that were highly dangerous or potentially lethal?





**PROVIDE A HEIGHTENED
RESPONSE**



3

Provide a Heightened Response When Indicators are Present

When highly dangerous/potentially lethal behaviors are present:

- Strengthen efforts to increase safety for victim
- Strengthen efforts to reduce dangerousness of offender



3

Provide a Heightened Response When Indicators are Present

The goal is all disciplines will:

- Identify indicators and express concern for victim and child(ren) safety
- Highly Dangerous/Potentially Lethal indicators create a substantial risk of harm to children



Intimate Partner Homicides & Children

- In 19% of Homicides, children were also killed (Websdale, 1999)
- In 70% of the cases that involved children, the child either witnessed the homicide or found the body (Hardesty, Campbell, 2008)
- 8% of the cases involved a prior report to child protective services (Hardesty, Campbell, 2008)



3

Provide a Heightened Response **Attorneys**

Increase Safety for Victim

- Discuss with victim:
 - Indicators
 - Heightened safety options and immediate referral to advocates
 - Impact of court process on safety
 - Trauma impact
- Maintain protections in agreements
- Predominant Aggressor



3

Provide a Heightened Response **Attorneys**

Increase Safety for Victim

- Discourage Mediation
- Appeal unfavorable orders
- Indicators in D-LAG help identify a need for a heightened response – they are not required to get a DVPO
- Other responses?



Provide a Heightened Response **Attorneys**

Reduce Dangerousness of Offender

- CPS proceedings:
 - Aggravated circumstances
- Civil proceedings:
 - Compliance review hearings Rule 24a
 - Cross examine GAL report
- Take threats seriously & take appropriate actions
- Other responses?





COORDINATE RESPONSES ACROSS SYSTEMS



4

Coordinate Responses Across Systems

- Communication across systems is key
- Using Team approach to work out process
- Process to share information in individual cases



4

Coordinate Responses Across Systems

D-LAG – Attorney System Collaboration

- Include indicators on any motions or arguments
- Refer to community & system advocates
- If victim contacts offender's attorney, refer to advocate & contact prosecutor
- Understand how other systems assess for indicators
- **Ethical issue: balancing judicial need for information & victim autonomy/safety**
- Others?





Questions?

Thank You



- For more information contact:
WV Coalition Against Domestic Violence
5004 Elk River Road, South
Elkview, WV 25071
(304) 965-3552
joyce@wvcadv.org

