

# TESTIFYING ABOUT LETHALITY RISK FACTORS<sup>1</sup>

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## **Introduction**

Domestic violence is about power and control. Not all domestic violence involves acts of physical violence. However, in 2000, 1,247 women were killed by an intimate partner.<sup>2</sup> Women are much more likely than men to be killed by an intimate partner. In 2000, intimate partner homicides accounted for 33.5 percent of the murders of women and less than four percent of the murders of men.<sup>3</sup>

Native women suffer the highest rate of violent crime victimization in the United States. They also experience the highest rates of intimate partner violence of any group in the United States.

While all batterers are potentially dangerous, some batterers are more likely to kill than others or are more likely to kill at specific times. There is no sure-fire way to predict whether a batterer will kill his partner or former partner. However, experts have identified a number of factors that are often present when a batterer does kill his partner.

These indicators are referred to as "lethality risk factors." Lethality risk factors are helpful in assessing the batterer's potential to kill or cause death. The greater the number of risk factors present or the greater the intensity of indicators, the greater the likelihood of a life-threatening attack. However, it is always important to remember that a batterer may be lethal without demonstrating any of these indicators.

An expert witness may be called to testify about lethality risk factors in a variety of cases. Most commonly, experts are called to testify in contested protection order hearings. Experts may also be called in

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<sup>1</sup> © 2005 Southwest Center for Law and Policy & Office on Violence Against Women, U.S. Department of Justice.

<sup>2</sup> Bureau of Justice Statistics Crime Data Brief, Intimate Partner Violence, 1993-2001, February 2003.

<sup>3</sup> Id.

criminal cases where the victim is asserting a self-defense claim. Expert testimony on lethality risk may also be an issue in child custody determinations.

### **The Lethality Risk Factors**

Barbara Hart of the Pennsylvania Coalition against Domestic Violence developed a list of lethality risk factors in 1997. The following section is adapted from that list.

#### ***Time of Separation***

The most dangerous time for victims is at the time of separation. Batterers seek power and control over their partners. In attempting to leave him, the victim is undermining his power and control. To a batterer, this is the ultimate defiance or betrayal. He may refuse to accept that she could or should live her life outside of his power and control. This type of batterer feels justified in preventing her from leaving him by any means necessary.

In one study of spousal homicide, over half the men were separated from their victims when they murdered them.<sup>4</sup> Women are most likely to be murdered when attempting to report abuse or to leave an abusive relationship.<sup>5</sup>

It is important to note, however, that not all batterers kill when they conclude that the battered woman is separating from them. Some kill long before they have any idea that the battered woman may be thinking about leaving. It is never safe to assume that because the victim has not made plans to leave that the batterer will not attempt to kill her.

#### ***Obsession***

A batterer who is obsessed with his partner is more likely to kill her. This obsession may express itself in "ownership" language. The batterer who says "Death before divorce!" or "You belong to me and

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<sup>4</sup> Barnard, G.W., Vera, H., Vera, M.I., & Newman, Gustave (1982). Till death do us part: A study of spouse murder. *Bulletin of the American Association of Psychiatry and Law*, 10, 271- 280.

<sup>5</sup> Browne, A. (1987). *When battered women kill*. New York: Free Press.

will never belong to anyone else!" or "If I can't have you, nobody will!" may be stating his fundamental belief that his partner has no right to a life separate from him. A batterer who believes he is absolutely entitled to his partner's obedience and loyalty may be life-endangering.

A batterer who idolizes his partner, or who depends heavily on her to organize his life and to meet all of his domestic needs, or who has isolated himself from the outside world may retaliate against a partner who decides to end the relationship. He believes that her "betrayal" justifies his lethal "retaliation."

### ***Depression or Other Mental Illness***

Batterers who have been severely depressed and who see little hope for getting better are at a greater risk to commit homicide and/or suicide. Research shows that many men who are hospitalized for depression often have homicidal fantasies directed at family members. Batterers who contemplate or commit suicide often kill their partners and/or children first.

### ***Extended History of Domestic Violence or Other Violence***

Partner or spousal homicide almost always occurs following a history of domestic violence or other types of violence perpetrated by the batterer. A long history of violence, especially where there has been prior intervention by the police, indicates an elevated risk of life-threatening conduct.

### ***Escalation of Risk Taking***

Many batterers are careful to conceal their abuse from the outside world. They perpetrate their violence behind closed doors where others cannot witness the abuse. They take steps to isolate their partners or to inflict injuries that are not visible. However, a batterer who begins to act without regard to legal or social consequences may be more likely to kill his partner. The chances of a lethal assault are increased if the batterer begins assaulting his partner in public or otherwise puts himself at risk for negative consequences.

### ***Escalation of Violence***

An increase in the frequency of violent incidents indicates a risk of homicide. For example, in the past the batterer allowed several weeks or months to pass between violence incidents, but recently the batterer has physically abused his partner every week or every few days. An increase in the severity of violence also indicates a higher risk of lethality. For example, in the past the batterer has slapped or punched his victim but recently he has choked or stabbed her.

### ***Pregnancy***

Pregnant women are at a greater risk of homicide by their abusive partners. Pregnant or recently pregnant women are more likely to be the victims of homicide than to die from any other cause.<sup>6</sup>

### ***Threats or Fantasies of Homicide or Suicide***

The batterer who has threatened to kill his partner, former partner, himself, the children, or his partner's relatives must be considered extremely dangerous. A batterer who speaks of "ending it all" is at risk of killing his partner.

The more the batterer has developed a fantasy about who, how, when and/or where to kill, the more dangerous he may be. The batterer who has previously acted out part of a homicide or suicide fantasy may believe that this is the solution to his problems.

### ***Weapons***

The possession of firearms and ammunition by an abuser can greatly increase the risk of lethality. Victims of domestic violence are six times more likely to be killed when there is a gun in the house. Women who have been threatened by a gun or other weapon are more than twenty times more likely to be murdered. A batterer who has used or who has threatened to use a weapon against his partner, his children, or himself is at a greater risk of killing.

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<sup>6</sup> "Enhanced Surveillance for Pregnancy-Associated Mortality, Maryland 1993 – 1998," 285(11) *Journal of the American Medical Association* (March 2001).

If a batterer possesses, collects, or is obsessed with weapons he is at a greater risk of committing a lethal assault. Fire should also be considered a weapon for batterers with a history of committing or threatening arson.

### ***Stalking***

According to the Stalking Resource Center, as many as 200,000 people are currently being stalked in the United States. One in 20 women will become targets of stalking behavior at least once during her lifetime. Seventy-five to eighty percent (75-80%) of all stalking cases involve men stalking women. Stalkers physically assaulted their victims 46 percent of the time. Stalking cases which emerge from domestic violence situations constitute the most common and, potentially, lethal class of stalking cases. Domestic violence victims who leave an abusive relationship run a 75 percent (75%) higher risk of being murdered by their partners.

Stalking allows a batterer to feel that he is dominating and intimidating his partner. It also allows him to continue to exercise power and control over his victim. Batterers who stalk their partner or former partner may stop at nothing, including homicide, to regain control of a victim who they consider to be their "possession." Victims of domestic violence are at the greatest risk of being killed by a batterer who is stalking them when they first leave the relationship.

### ***History of Rage or Antisocial Behavior***

A batterer who has demonstrated aggressive behavior to the general public (such as bar fights, gang related violence, job related violence, vandalism, or repeated unlawful behavior) is more likely to kill his partner. Batterers engaging in an illegal occupation (drug dealing, etc.) and those with prior criminal convictions for violent crimes are also more likely to kill their partners.

### ***Hostage-taking***

A batterer who physically prevents his partner from leaving the house is at a high risk of committing homicide.

### ***Drugs and Alcohol***

Men with a history of drug and/or alcohol abuse are at a higher risk of committing domestic violence homicide. Intoxication at the time of a domestic violence assault is also a significant risk factor.

Drugs and alcohol decrease inhibitions and may make a person more likely to act impulsively or to act out fantasies that he or she would not otherwise do if they were sober. Some batterers consciously and intentionally use drugs and alcohol for the purpose of making it easier for them to inflict harm on their partners.

### ***Violence in His Family of Origin***

Batterers with a history of violence in their family of origin are also more likely to kill their partners. Batterers who witnessed or experienced the most severe domestic violence in their homes are at the greatest risk of killing their partners.

### ***Cruelty to Animals***

According to the American Humane Society, 75% of all homes with school age children have at least one pet in the home. Nearly 85% of all women entering domestic violence shelters report that their abuser had injured, threatened to injure, or had killed a family pet.

Batterers threaten, injure, or kill pets as a way of threatening and controlling their partners. A batterer who neglects, abuses, or kills pets, farm animals or wild animals or who forces his partner or children to do so is more likely to kill his partner.

### ***Batterer Who Is Living With Children Who Are Not His Own***

A batterer living with children who are not his own is more likely to kill his partner or the children.

### ***Unemployment***

A batterer who is unemployed is at greater risk for killing his partner. Unemployment may contribute to a feeling of desperation. An

unemployed batterer may also feel that he is losing power and control over his partner. Unemployment, in combination with other lethality risk factors, increases the likelihood that a batterer may kill his partner.