



Saving Lives Through
Danger Assessment

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Why Lethality Assessment?

- Only 4 % of DV homicide victims nationwide had ever received DV services.
- Research consistently shows future assaults are reduced significantly if victim receives DV services (one study says 60 per cent reduction in serious assaults).
- 50 % of homicide victims had some previous involvement with law enforcement.
- GOAL: Connect the highest risk victims with services.

Why Lethality Assessment?

- Victims often significantly underestimate the danger they are in.
- GOAL: Assist victims in making informed decisions.
“The primary purpose of the LAP is to educate women regarding their own danger.” - *Jacquelyn Campbell, Ph D*
- Impress victim that we care.
- Increase success of future DV response.

“Where something is
predictable, it is
preventable.”

-- Jacquelyn Campbell, Ph D

Jacquelyn Campbell Research



- Johns Hopkins School of Nursing professor
- Research since 1980 on common risk factors for future lethal intimate partner violence
- Risk Assessment instrument in medical setting beginning in 1985
- 20 questions and protocol – for use in a medical setting

Lethality Assessment Protocol (LAP) in Maryland

- Designed for LEA first responders
- Since 2005, 100 per cent of Maryland LEA use LAP
- Maryland has had a 34 per cent reduction in DV Homicides and serious DV assaults



Lethality Assessment

LAP is done by law enforcement and first responders if:

- 1) Intimate partner relationship AND:
- 2) Probable cause assault has occurred, OR
- 2) Repeat LEA calls to parties or to location, OR
- 2) 'Gut Feeling' of officer indicates

Domestic Violence Lethality Screen for First Responders



“Screened IN” Result

- Show victim the assessment and explain results to her
- Make call to DV hotline – NOT on victim’s phone
- Ask victim to speak with crisis worker
- If victim declines, emphasize importance and then ask victim to reconsider
- If victim still declines, follow next steps

“Screened OUT” Result

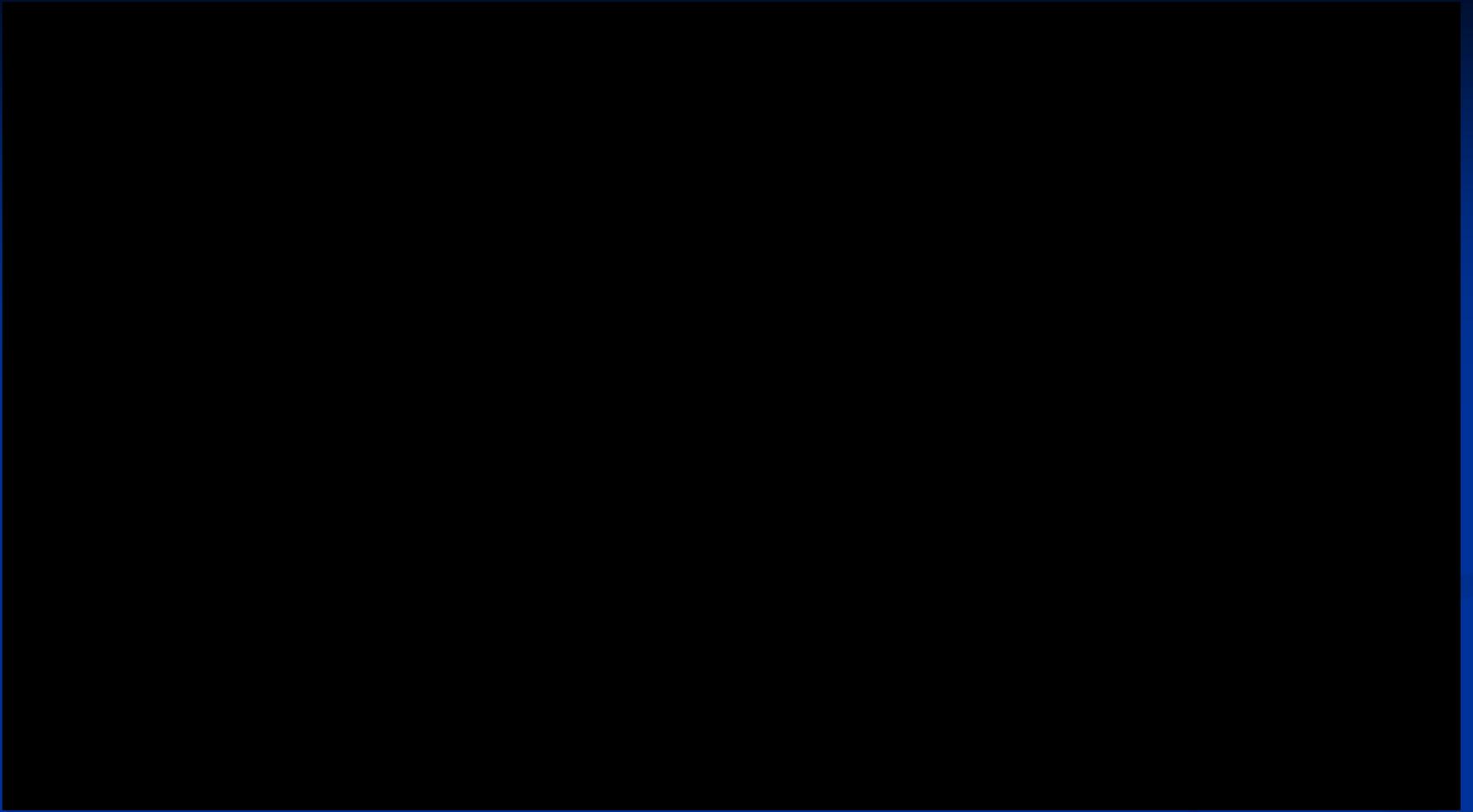
- Advise victims that DV is dangerous, violence is likely to continue and may increase
- Ask victims to look for signs of danger in her life
- Refer victim to services
- Give victim contact info
- Proceed with criminal case, if any

Maryland Results (So Far)

- When LAP used, 54 per cent screened in
- 59 per cent of victims screened in spoke with hotline resource worker
- 33 per cent of victims screened in sought services
- Average length of time for officers was 12 minutes at scene
- Between 2006 and 2008, number of victims who participated in services after LAP who died:
 - ZERO.

Victim Statements

- “It helped me see that I have spent a lot of time minimizing my experiences so I could be normal.”
- “It helped me to know how much danger I was in and it scared me.”
- “This makes me more resolved not to go back.”
- “It made me strong in supporting my decision to be free of stress and harm.”



Prosecution Setting

- Higher bail and increase in release conditions
- Forfeiture by wrongdoing hearings
- Additional evidence to use at trial
- Prioritizing cases
- Impact at sentencing



Forfeiture by Wrongdoing

Hearsay statements of victim admitted if:

- 1) Victim “unavailable” at time of trial;
- 2) Unavailability caused by Defendant’s acts*; and
- 3) Defendant intended acts to render victim unavailable.
- Must be established by preponderance of evidence;
- Rules of Evidence must be followed.

State vs. Poole, 232 P3d 519 (2010)

Defendant called Victim 276 times from jail, urging her not to testify, despite protective order prohibiting contact. Forfeiture found. *State vs. Zaragoza, 287 P3d 510 (2012)*

* *See Giles vs. California*

Forfeiture by Wrongdoing

* *Giles v. California*, 128 S Ct 2678 (2008):

In a domestic violence setting, an “ongoing pattern of abuse” can be inferred, in some circumstances, as intent to silence the witness in some cases. The element of intent [to prevent a witness from testifying] would normally be satisfied by the intent of the domestic abuser in a classic abusive relationship, which is meant to isolate the victim from outside help, including the aid of law enforcement and the judicial process.

Forfeiture by Wrongdoing

- At forfeiture hearing, confrontation clause does not apply, but Rules of Evidence apply. Standard is preponderance of evidence.
- Don't forget Hearsay catch-all Rule 807:
 - Statement has equivalent circumstantial guarantees of trustworthiness;
 - Offered to prove a material fact;
 - More probative on the point than any other evidence that can be obtained by reasonable efforts; and
 - Admitting it will best serve purposes of rules and interests of justice.
 - State must give notice of intent to offer statement.

Minnesota Bench Guide (2009)

- **How To Use The Domestic Violence Risk Assessment**
- **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

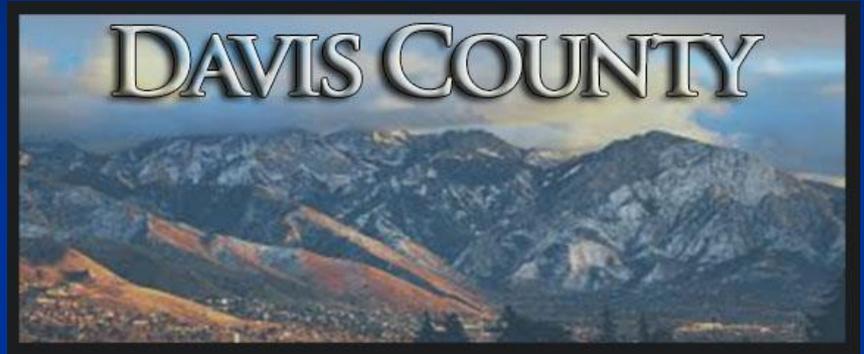
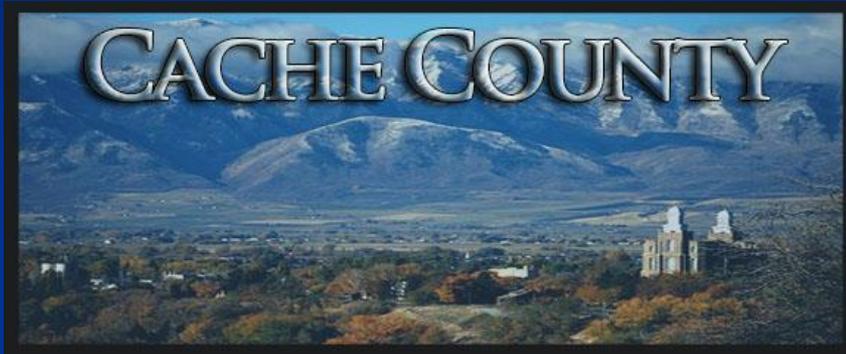
Use of LAP by Utah Courts



Utah AOC Memorandum re:
Misdemeanor sentencings - July 17, 2015

“Courts may want to consider dangerousness and lethality factors when determining length and type of probation.”

Utah Pilot Areas – Beginning September 1, 2015



I freed a thousand
slaves. I could have
freed a thousand more
if only they knew they
were slaves.

-- Harriet Tubman



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