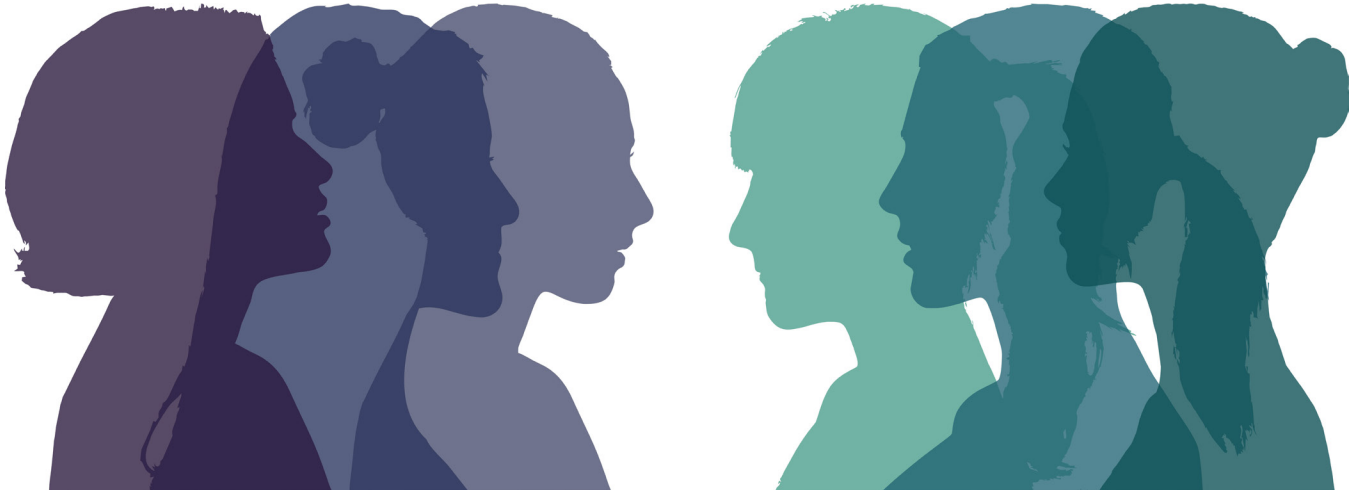




# PROJECT ENHANCED SAFETY: RISK ASSESSMENT FRAMEWORK IN FAMILY COURT

## FINAL REPORT

We are grateful to The Law Foundation of Ontario for funding the project.



## Project Enhanced Safety in Family Courts

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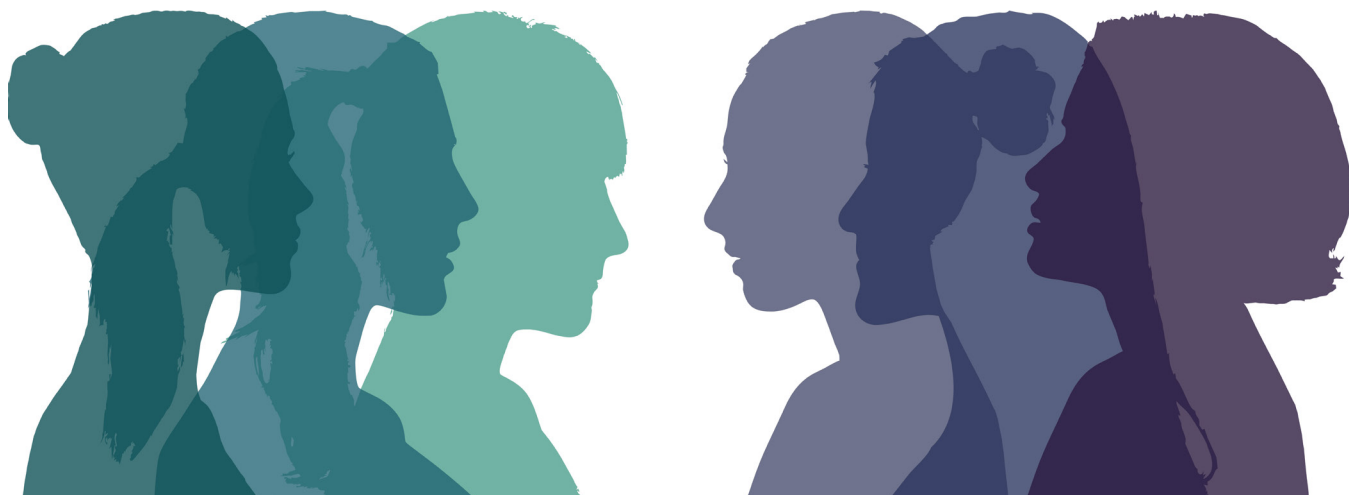
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### IPV RIA Tool

The IPV RIA tool was made possible by the valuable contributions of a great number of expert partners and stakeholders. We would especially like to thank the family court stakeholders Lauren Calderwood, Ishbel Ogilvie, Antoinette Clark; project partners experts from the Center of Research and Education of Violence Against Women Barb MacQuarrie, Margaret Macpherson, Peter Jaffe; project consultant Pam Cross and Professor Janet Mosher from Osgood Hall Law School, York University.

We also want to acknowledge staff, volunteers, and students of the Clinic who have worked on the project in various capacities. A special thank you to the survivors of intimate partner violence who shared their family court experiences and their contributions toward the project.

**Disclaimer:** While financially supported by The Law Foundation of Ontario Access to Justice Fund, the Barbra Schlifer Commemorative Clinic is solely responsible for all content. This report is a product of the staff and external contributions. The findings, interpretations, and conclusions expressed in this volume are to be used for guidance only and do not replace legal advice and counselling supports.



**OVERVIEW:** This document is a compilation of background research and data collected for the purpose of designing the Intimate Partner Violence Risk Assessment Tool.

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# 1 Executive Summary

The Barbra Schlifer Commemorative Clinic (The Clinic) received funding from The Law Foundation of Ontario for a two-year project called Enhanced Safety: Risk Assessment Tool in Family Courts. The project's main goal was to create a risk assessment tool to be used by family court stakeholders with survivors of intimate partner violence who are in contact with the family court.

The Enhanced Safety Final Report aims to share the project's findings, the process of designing the IPV RIA tool, and make it available for use by service providers working with survivors of intimate partner violence in family courts.

The design of the tool was informed by the research and validated risk factors. Also, the Clinic undertook a community-based process that was collaborative in approach with family court stakeholders, survivors of violence and community partners.

Service providers can use the resulting tool as a guide in identifying potential domestic violence high-risk situations and the proper steps to remedy these as effectively as possible.

Research studies and death review committees have well-acknowledged that in cases with a history of abuse in the relationship, the risk for potential harm or lethality increases after separation; in fact, more than two-thirds of domestic homicides occur during or pending separation.

Most risk assessment tools are overwhelmingly focused on the perpetrator's behaviour and the potential risks of reoffence, with a primary emphasis on risk factors associated with physical violence or threats posed by the abuser. The IPV RIA tool poses questions that allow the assessor to explore more in-depth types of abuse, including coercive controlling behaviour and instances of power and control.

Furthermore, the Clinic used an intersectional analysis when designing the tool by including questions seeking to ascertain information on the additional risks women face due to their social identity and systemic oppression. These overlapping systems of oppression can magnify risk factors for gender-based violence, including barriers to receiving services and finding safety.

The assessment of risk relies heavily on professional judgment, where professional training, expertise and experience play a role while interviewing a survivor. It is crucial to be aware of survivor's body language, reactions to questions and be mindful of potential survivor trauma due to abuse when conducting interviews and asking questions.

Risk assessment must be ongoing since risk can increase or decrease according to different life circumstances, including family court orders. It is essential to ensure that a survivor is connected with other systems and organizations to provide support and ongoing safety planning discussions and strategies.



## 2 Introduction

The Barbra Schlifer Clinic is a not-for-profit organization founded in 1985 to commemorate the life of Barbra Schlifer, an idealistic young lawyer who died by violence on the night of her call to the Bar of Ontario on April 11, 1980.

The Clinic is Canada's only fully integrated legal, counselling and interpretation clinic specialized in assisting women who have experienced all forms of violence or its aftermath. We work in more than 200 languages, provide various innovative counselling services and are the go-to for community mobilization, public legal education/information, and legal representation for gender-based violence across the lifespan. We assisted more than 9,000 women last year. Since opening, the Clinic has supported more than 90,000 women.

### Mission

Barbra Schlifer Commemorative Clinic offers legal services and representation, trauma-informed counselling, and multilingual interpretation to diverse women<sup>1</sup> who have experienced violence. We cultivate women's skills and resilience by fostering their safety, dignity and equality, and we amplify women's voices to create individual and collective change.

### Vision Statement

Through the building of local and global partnerships, we envision a world where women live free from violence. We are committed to working alongside communities to create autonomy and self-determination for women, informed by their diverse experiences, needs, and choices.

### Belief Statements

#### **We believe:**

1. Violence against women means any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering that may include financial, structural, and institutional abuse to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.
2. Violence against women happens in all cultures. It is based on an abuse of power, results in inequality, and affects all relationships through the generations.
3. Diverse women and men globally have worked and will continue to work together to stop gender-based violence. We recognize, honour, value and cultivate the work that has come before us in our commitment to finding sustainable solutions in the present.

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<sup>1</sup> The umbrella term "woman" recognizes that gender is self-identification that is not necessarily correspondent with assigned sex at birth. We recognize the complexity and diversity of gender and aim to be inclusive to people outside of and across the gender spectrum.

## Value Statements

### We value:

#### **Anti-Oppression and Feminism**

We are a trauma-informed, intersectional feminist organization. Our work is informed by diverse women's movements and experiences and we support the struggles of BIPOC (Black, Indigenous and People of Colour) and their achievements against oppression, colonialism, racism, and other forms of discrimination.

#### **Compassion**

Our work is rooted in compassion, viewing the world from multiple perspectives. Self-Awareness Our work is grounded in a reflective practice that continually examines power imbalances and builds our collective awareness and ability to work towards equitable responses and solutions.

#### **Partnerships and Networks**

We work in partnership with local, national, and global movements to amplify diverse women's voices against systemic and structural oppression.

#### **Autonomy and Self-Determination**

We respect and promote women's autonomy to make the choices that are best for them as we support them in their journey to freedom from violence.



### 3 Project Background

The Barbra Schlifer Commemorative Clinic (The Clinic) received funding from the Law Foundation of Ontario for a two-year project called Enhanced Safety: Risk Assessment Tool in Family Courts. The project's main goal was to create a risk assessment tool to be used by family court stakeholders with survivors of intimate partner violence who are in contact with the family court. The tool's design took into account the complex lived realities of survivors, including physical, emotional, mental, social/cultural, racial, financial, legal, and spiritual abuse and the multiple sources of oppression and systemic barriers that women are subject to.

The tool's creation involved extensive consultations with court stakeholders that we engaged in different stages of the project. In addition, the Clinic partnered with Luke's Place and Indus Community Services, agencies that deliver the Family Court Support Worker Program in Durham Region and Peel Region. The Family Court Support Worker Program is a provincial program funded by the Ministry of The Attorney General. Family court support workers provide direct support to survivors of domestic violence who are involved in the family court process.

The Clinic also developed a partnership with the Centre of Research and Education of Violence Against Women and Children (CREVAWC) from Western University for consultation and feedback on the tool draft.

### 4 Project Methodology

The Clinic collected the bulk of the information required for this project through a detailed review of literature on intimate partner violence, spousal violence risk assessment tools, risk assessment and management frameworks and protocols developed by many organizations and government bodies in Canada and Internationally. The Clinic also drew upon its internal expertise from decades of working with survivors in the Family Courts.

In addition, the Clinic engaged in collaborative consultations and conducted a comprehensive needs assessment by interviewing family court stakeholders, service providers and survivors of intimate partner violence in contact with the Family Court. The Clinic also observed Family Courts in Toronto, Brampton, and Durham with assistance from family court support workers who provide support services to survivors of intimate partner violence in family court. We requested information on risk assessment practices in use, either formally or otherwise, by family legal actors.

All participants of the needs assessment consultation interviews were informed of the project objectives and signed a consent form for participation. Participant's information will be kept confidential. Consultation interviews' key findings were compiled in a report that can be found below under Appendix 9.3: Needs assessment report.

## 5 Evaluation Framework

The evaluation framework was based on the Charting Impact exercise developed by BBB Wise Giving Alliance, GuideStar USA and Independent Sector, which included five main questions designed to help understand project objectives. These questions were as follows: (a) what is the Clinic aiming to accomplish; (b) what are the Clinic's strategies for making this happen; (c) what are the Clinic's capabilities for doing this; (d) how will the Clinic know if it is making progress; and, (e) what has and hasn't the Clinic accomplished so far? To answer these questions, the evaluator consulted the following key Clinic documents:

- Theory of Change framework;
- Clinic's impact statement; and,
- The project proposal submitted to the Law Foundation of Ontario (LFO), *Family law Access to Justice Project: Enhanced Safety: By Increasing Efficiency of Risk Assessment in Courts*<sup>1</sup>.

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Also referred to in this application as "the LFO Project" or "the Project Proposal."

### Goal of the framework

The goal of the framework was to provide the parameters on which the LFO Project was evaluated. Evaluation tools were developed based on this framework that tested the different types of commitments listed under each of the framework's questions. Evaluation activities were conducted throughout the project, and evaluation reports were created and shared with the project team on a regular basis.

There were three categories of information that the Clinic collected throughout the life span of the project: (1) data sources, which identified from where the evaluative information originated; (2) data collection methods, which identified the manner that the Clinic obtained evaluative information from data sources; and, (3) performance indicators, which specified how well the Clinic performed and which included objective measures—such as statistics and quantities—as well as subjective measures—such as qualitative feedback.

## 6 Project Key Findings

This section highlights the project's main findings based on the literature review, court observation period and needs assessment consultation interviews with family court stakeholders and survivors of violence.

### Most tools emphasize physical violence & criminal behaviour

Many current risk assessment tools have been developed in the context of the criminal justice system or policing. They focus primarily on the risk of abusers re-offending/perpetrating further acts of violence. As such, their emphasis is overwhelmingly on incidents of abuse that meet the threshold of criminal conduct, with an emphasis on severe criminality. Intimate partner violence is more complex and sometimes does not manifest in a way that would be recognized by the criminal justice

system. These types of risk assessment tools perpetuate the reductive vision of domestic violence as a series of incidents of physical violence and fail to account for the risk of other, damaging harms like continuing harassment, manipulation, coercion, or economic and psychological abuse<sup>1</sup>.

These unaccounted forms of harm can exacerbate the barriers already present for survivors with intersecting vulnerabilities, and the intersecting vulnerabilities can conversely aggravate the magnitude of these harms.

<sup>1</sup> Neilson, Linda C. 2013. "Enhancing safety: When domestic violence cases are in multiple legal systems (criminal, family, child protection): A family law, domestic violence perspective." Family, Children and Youth Section, Department of Justice Canada, at Part 6: Risk Assessment, Continuing Domestic Violence



### **Most tools lack a focus on systemic and institutional risk factors**

Most tools studied do not engage an intersectional analysis, nor do they explore the compounded risks that survivors and their families face as a result of intersecting vulnerabilities. For instance, in many risk assessment tools, there are no questions that seek to ascertain information on the risks women face due to other systems of oppression or aspects of their experience, such as social location. Survivors who encounter multiple overlapping systems of oppression in addition to intimate partner violence—such as immigration status, cultural or religious bias, disability, racialization, indigeneity, sexual orientation or any other reason—face additional barriers that are unaccounted for when accessing services or resources.

### **Sensitive to Ontario Family Law Context**

The tools reviewed are not all designed in Ontario or Canada and are not focused on the experience of family law litigants and areas of law that governs aspects of child/ren custody and access decisions. Consequently, they are disproportionately focussed on criminal conduct and are neither sensitive nor responsive to any particular issues faced by prospective family law litigants.

### **Lack of standard protocols for IPV screening and assessment of risk in family court**

Consultation interview findings demonstrated that most family court stakeholders interviewed do not use tools to assess IPV cases and potentially high-risk cases when providing services to survivors of violence in family court. Most participants stated that they use their experience and professional judgment when assessing potential high-risk cases in family court.

### **Lack of training on risk assessment tools and domestic violence risk factors**

90% of family court stakeholders that participated in the needs assessment consultation interviews indicated that they did not have formal training on risk assessment tools and domestic violence risk factors.

### **Survivors' safety concerns not acknowledged**

Most survivors of intimate partner violence interviewed indicated that their safety concerns were not considered during the family court proceedings, especially on interim and final court orders. Survivors provided recommendations such as more Legal Aid Ontario funding, more training to family court stakeholders on the impact of abuse on survivors and children, more consideration of safety concerns in particular to access exchanges and orders, more communication between criminal and family court and others.



# PROJECT ENHANCED SAFETY: AN ANNOTATED BIBLIOGRAPHY

## Contents

1. Introduction
2. Academic Journals
3. Research Reports
4. International Risk Assessment, Risk Management, and Safety Planning Tools and Frameworks
  - Australia • Canada • New Zealand • United States • United Kingdom
4. Government Guides

## Disclaimer

The information in this annotated bibliography was completed to the best of our knowledge and was created without consulting with the authors, editors, and/or creators of the works cited. A note to the authors referenced: Please contact the Barbra Schlifer Clinic if you feel that we have not summarized the core focus of your article/project adequately. We will be prompt to revise it and integrate changes that may reflect your work in more detail. You must not rely on the information in this report as an alternative to legal advice. If you have any specific questions about any family law matter, you should consult a qualified professional.

# PROJECT ENHANCED SAFETY: AN ANNOTATED BIBLIOGRAPHY

## Acknowledgments

The annotated bibliography is a part of The Enhanced Safety – Risk Assessment Tool in Family Courts Project. Funding for the project was provided by the Law Foundation of Ontario.

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The Barbra Schlifer Commemorative Clinic would like to thank and acknowledge the contributions of law students and volunteers towards this project.

## 1 Introduction

The annotated bibliography provides an overview of current research and practices when it comes to the assessment and management of risk in cases of intimate partner violence. Almost all documents, articles, and reports are relevant and provide some input for the development of the risk assessment tool for survivors of intimate partner violence. This document has a particular emphasis on risk assessment tools and protocols for survivors in contact with the family court system but also highlights the use of risk assessment tools and risk management strategies in other settings since, in most cases, different sectors will play a role in survivor safety. Moreover, this document presents an overview of international research, practices and protocols about risk assessment tools, risk management and safety planning strategies with survivors of intimate violence.

This document has been divided into the following categories: academic journals, research reports, international risk assessment, risk management, and safety planning tools and framework, and government guides.

It is important to note that this annotated bibliography does not seek to provide a comprehensive examination of all related issues about risk assessment tools, risk factors, and risk management protocols in family court. Rather it has been created to facilitate a broad reflection of the current publications and practices related to this topic.

## 2 Academic Journals

**Beck, C. J. A., & Raghavan, C. (2010) "Intimate partner abuse screening in custody mediations: The importance of assessing coercive control. *Family Court Review*, 48(3), 555-565. Retrieved from [https://www.researchgate.net/publication/230284406\\_Intimate\\_partner\\_abuse\\_screening\\_in\\_custody\\_mediation\\_The\\_importance\\_of\\_assessing\\_coercive\\_control](https://www.researchgate.net/publication/230284406_Intimate_partner_abuse_screening_in_custody_mediation_The_importance_of_assessing_coercive_control)**

Beck & Raghavan discuss how to measure and classify Intimate Partner Violence (IPV). They suggest that measuring certain elements of a violent relationship can help clarify the underlying meaning or cause of IPV, which, in turn, can help researchers with classification.

The paper presents empirical findings from a large study of cases of custody/parenting time mediation. Findings show that assessing only physical violence is not sufficient to detect situations of abusive relationships. Screening tools should include an assessment of coercive controlling behaviour, victim fear, and safety. The authors recommend that researchers continue to refine measures of coercive control for use in custody/parenting time mediations.

**Burman, E., Smailes, S. L., & Chantler, K. (2004). 'Culture' as a barrier to service provision and delivery: Domestic violence services for minoritized women. *Critical Social Policy*, 24(3) (332-357)**

This article discusses how minoritized women experience domestic violence services by assumptions of 'culture', which produces barriers to the delivery of domestic violence services.

Data were obtained from 26 domestic violence service providers in the Manchester, England area, and from 23 self-identified African, African-Caribbean, South Asian, Jewish, and/or Irish survivors of domestic violence.

The authors found that minoritized women expressed concerns about approaching "white" institutional services for assistance. Service providers tended to downplay, disbelieve, or refuse to acknowledge that domestic violence had occurred. Minoritized women were also more likely to be or feared that they would be, disbelieved, blamed, shunned, overlooked, and/or have their identities revealed without their consent, citing lack of confidentiality as a concern.

The authors propose culturally specific domestic violence services, highlighting the need to challenge notions of cultural privacy and "race anxiety" in working with minoritized communities.

**Cleak, H. & Bickerdike, A. (2016). One way or many ways: Screening for family violence in family mediation. *Family Matters*, (98), 16.**

Cleak & Bickerdike detail changes to the Australian Family Law Act that emphasize the need to consider domestic violence and abuse. They review studies on the prevalence of family violence in Australia and on the existing gaps in court and service delivery. The authors advocate for an individualized approach to facilitate disclosure of family violence, noting that while some clients respond to pointed questions, others may prefer filling out a questionnaire.

Cleak & Bickerdike discuss methods and tools for screening for partner violence in mediation, including the Revised Conflict Tactics Scale, the Relationship Behavior Rating Scale, and the Domestic Violence Evaluation tool. They advocate for screening tools that identify the type and nature of family violence, and for a family violence profile that examines issues of trauma, jealousy and control, emotional abuse, intimidation, physical and psychological abuse.



**Ellis, D. (2008). Divorce and the family court: What can be done about domestic violence?. *Family Court Review*, 46(3), 531-536.**

Ellis offers three methods to assist family courts with reducing the number of intimate partners who experience domestic violence during and after divorce proceedings. First, increase the number of opportunities for parties to participate in non-adversarial procedures (i.e., collaborative divorce mediation), as litigation can exacerbate a propensity for violence.

Second, include mandatory risk assessment and management for families. Ellis recommends the Domestic Violence Evaluation (DOVE) as a tool to evaluate and categorize risk, recommend proceedings and community-based treatments, and/or interventions. Third, educate court-based and court-connected professionals who work with divorcing and divorced families who experience domestic violence on the use of DOVE and in-depth assessments of domestic violence.

**Ellis, D. (2015). The Family Court-based stepping stones model of triage: Some concerns about safety, process, and objectives. *Family Court Review*, 53(4), 650-662.**

Ellis evaluates the triage model of the Family Civil Intake Screening (FCIS) used in family courts and family services in Connecticut. The triage model involves mandatory screening processes, where couples are matched with appropriate conflict resolution proceedings. The screening process uses the Domestic Violence Screening Instrument-Revised to assess the likelihood of violence between partners in order to direct them to appropriate conflict resolution proceedings.

Ellis criticizes studies that focus on the bureaucratic merits (i.e., cost savings) of the FCIS program at the expense of safety. Screening and risk assessment are required components of any risk management program. Advocating for a safety-first model, Ellis recommends a) screening for risk; b) assessing for risk, and, only after both of those steps are complete; c) referring couples to conflict resolution proceedings. Couples should not be screened out of mediation unless an alternative is clearly safer.

**Ellis, D., & Stuckless, N. (2006). Domestic violence, DOVE, and divorce mediation. *Family Court Review*, 44(4), 658-671.**

Ellis & Stuckless provide an overview of Domestic Violence Evaluation (DOVE), a tool used to assess the risk of domestic violence during and following participation in divorce mediation. DOVE is a necessary tool, given the high level of risk of violence associated with separation. DOVE looks at 19 variables of intimate partner violence following separation, and links interventions to levels of risk, particular factors, and the type(s) and level of violence and abuse.

Part one of DOVE looks at the interactions between the partners. Risk scores are generated, and individuals are placed in one of four risk categories: low, moderately high, high, and very high risk. The authors advocate for a dual categorical/probability format approach that considers the probability of domestic violence and abuse. Risk categories are linked with Safety Plan interventions to manage risk.

The authors stress that DOVE is a supplement, not a substitute, for professional judgment by mediators. Requests for interventions made by parties to the mediation must always be taken seriously.

**Hardesty, J. L., & Chung, G. H. (2006). Intimate partner violence, parental divorce, and child custody: Directions for intervention and future research. *Family Relations*, 55(2), 200-210.**

Hardesty & Chung assess the intersection between separation, divorce, and intimate partner violence, and the implications for practitioners. They highlight a need to consider the entire family system in divorce proceedings while holding perpetrators of violence accountable for their behaviour.

The authors suggest presumptions that a) it is in the best interests of the child to maintain a relationship with both parents after divorce and b) that joint custody facilitates cooperative relationships. In cases of domestic violence, however, this may not be so. There is no system for routinely identifying abused women during divorce proceedings. Many women are discouraged from disclosing intimate partner violence as it may harm their case if a judge senses hostility or uncooperativeness.

The authors propose routine screening to identify violence, using the Abuse Assessment Screen and developing individualized safety plans. Safety plans should respond to risk factors identified by the Danger Assessment tool and the Harassment in Abusive Relationships: A Self-Report Scale (HARASS) tool.

Parenting plans should account for risk to reduce the risk of exposing a child to violence. Recommended parenting programs include parent education and intimate partner violence programs.

**Hiitola, J., & Hautanen, T. (2017). Assessing violence in the family-social work, courts, and discourses. *Nordic social work research*, 7(1), 30-41.**

Hiitola & Hautanen assess 237 child custody and access cases involving domestic violence in Finland. Of these, 149 involved custody disputes from the district and appeal courts from 2001-2003. The balance involved out-of-home placement decisions made by social workers that were being contested by either parent or the child in administrative court in 2008. This bifurcation of proceedings stems from the fact that Finland does not have a separate family court system.

The authors found that courts inappropriately assess and construe violence. In both proceedings, the court emphasized the principle of the "child's best interests." Violence was often framed as an interactional or relational problem between the parents, rather than as a result of gendered power dynamics. The result of this "conflict discourse" was that violence was often disregarded or omitted from court documents. The authors also find that custody dispute cases involved a discourse of violence as risk, while out-of-home placement cases involved a discourse that blamed the mother for failing to protect her children. Where risk is contested and a mother is blamed for having endangered her child, the abuser is not deemed responsible for his actions and an understanding of the nature of family violence is lost.

**Holtzworth-Munroe, A., Beck, C. J., & Applegate, A. G. (2010). The mediator's assessment of safety issues and concerns (MASIC): A screening interview for intimate partner violence and abuse available in the public domain. *Family Court Review*, 48(4), 646-662.**

Based on a review of prior studies examining screening methods for Intimate Partner Violence and Abuse (IPV/A) at the Indiana University Maurer School of Law Viola J Taliaferro Family and Children Mediation Clinic, Holtzworth-Munroe et al. find that mediators underdetect IPV/A among families entering mediation.

The use of IPV/A screening tools showed higher rates of IPV/A than mediators had identified. These findings suggest a need for more systematic screening of IPV/A in mediation cases.

The authors identify shortcomings with existing IPV/A screening tools. Some tools only assess certain types of abuse, while others do not include behaviorally specific questions. Some tools, such as DOVE, require lengthy training to use effectively, while others such as Relationship Behavior Rating Scale (RBRBS) are copyrighted and less accessible.

To address these shortcomings, the authors created a new screening measure for IPV/A: The Mediator's Assessment of Safety Issues and Concerns (MASIC). MASIC is administered as an interview to help build rapport with parties. Parties report on their partner's perpetration of IPV/A to against potential self-incrimination. Parties are asked a series of behaviorally specific questions about IPV/A over two periods to assess the existence and timeline of IPV/A. The MASIC can be used to assess multiple types of IPV/A, including psychological abuse, coercive control, physical violence, extreme physical violence, sexual assault, sexual abuse, stalking, and fear.

**Jaffe, P. G., Crooks, C. V., Reid, M., White, J., Pugh-Markie, D., & Baker, L. (2018). Enhancing judicial skills in domestic violence cases: the development, implementation, and preliminary evaluation of a model US programme. *Journal of Social Welfare and Family Law*, 40(4), 496-514.**

Jaffe et al. Review a program entitled "Enhancing Judicial Skills in Domestic Violence Cases" (EJS), developed by the National Judicial Institute on Domestic Violence, as a tool for judges. The EJS workshop involves six curriculum segments: Practical Courtroom Exercises, Victim and Perpetrator Behavior, Fact-Finding, Access to Justice, Fairness and Cultural Issues, and Decision-Making. These segments assist judges with identifying issues and patterns of domestic violence in civil and criminal cases; the impact of such violence on adult victims and children; issues related to credibility, bias, motive; and the unique challenges associated with unrepresented parties, among other things.

Led by senior judges who have shown leadership in the area of domestic violence, the EJS program intersperses mini lectures with video examples, case studies, experiential exercises, and small group discussions.

The study assessed 480 self-reports from judges who had taken the EJS workshop between 2006 and 2010. The results suggest that judges found the program to be engaging and effective, prompting behavioural changes related to access to justice, judicial leadership, victim safety, and abuser accountability. Upon completion, judges suggested that the training increased their awareness, skills, and confidence in domestic violence cases. The most positive results came from self-reports on judges' ability to enhance victim safety.

**Kropp, P. R. (2008). Intimate partner violence risk assessment and management. *Violence and victims*, 23(2), 202.**

Kropp reviews the literature on intimate partner violence risk assessments and discusses certain issues associated with theoretical concepts and practical applications. The author begins by explaining the difficulty in defining risk—a relative and contextual concept—and outlines various spousal risk categories identified in the Brief Spousal Assault Form for the Assessment of Risk (B-SAFER).

The author presents three models of risk assessment and concludes that a structured professional judgment approach is preferable. This approach allows for a consideration of empirical data and risk factors, as well as individualized professional judgment to identify and apply relevant risk

factors to a particular case. Other risk assessment tools include the Danger Assessment, which measures the likelihood of spousal homicide; the Domestic Violence Screening Inventory, which measures recidivism by domestic violence perpetrators on probation; the Ontario Domestic Assault Risk Assessment, which measures recidivism of domestic violence; and the Spousal Assault Risk Assessment Guide, which measures risk of wife assault through a procedure of interviews, standardized measures and a review of collateral records.

The article elucidates the importance of having an informed consent from survivors who are participating in risk assessments. The author concludes that effective risk communication is essential, along with risk assessment, risk management, through supervision, ongoing assessment, and safety planning.

**Kropp, P. R. (2004). Some questions regarding spousal assault risk assessment. *Violence against women*, 10(6), 676-697.**

Kropp addresses the issues underlying spousal assault risk assessment. The author states that there is no precise definition of risk, which makes it difficult to compare risk assessment studies and determine whether different aspects of risk have different constellations of risk factors. The author outlines several common risk factors based on other scholarly research, including a history of violent behaviour toward family members, antisocial attitudes, and relationship instability, especially if there has been a recent separation or divorce. The author stresses the role of victims in risk assessment processes, while warning that their involvement could result in an increase in violence following a court proceeding. The article provides useful guidance in outlining who should administer risk assessments, and how they should be managed and evaluated.

**Laing, L. (2017). Secondary victimization: Domestic violence survivors navigating the family law system. *Violence against women*, 23(11), 1314-1335.**

This article explores the impact that changes to the Australian family law system have had on domestic violence survivors negotiating safe post-separation parenting agreements. Laing discusses the recent changes with the Family Law Amendment (Shared Responsibility) Act 2006, which emphasizes a child's right to be cared for by both parents. The author analyzes the results of interviews with 22 female domestic violence survivors in the suburban and outer areas of Sydney, New South Wales, who have separated from their partners, with whom they have a parenting agreement. Analyzing these interviews, the author finds three prominent themes: 1. secrecy/silencing, 2. coercive control and, 3. undermining the mother-child relationship. Regarding secrecy/silencing, many women described being discouraged from vocalizing their experiences of domestic violence in court and in mediation sessions to avoid being perceived as subverting the legislation's goal of having children be cared for by both parents.

The women responding to the study indicated that they had to balance efforts to negotiate safe parenting arrangements with the need to avoid being perceived as purposefully undermining the father-child relationship. Regarding coercive control, the respondents discussed how joint parental responsibility led to continued coercive control by their abusive former partners. Finally, in terms of undermining the mother-child relationship, respondents indicated that their former partners would manipulate or abuse their children to undermine the woman's role as a mother, undermine her authority, or reward the child's disrespectful conduct toward her. The respondents also noted how some of their children came to resent them for having to visit their father, with whom they did not want to have contact.

Analyzing each of these themes, the author suggests that the family law system has resulted in secondary victimization for female survivors of domestic violence. The author concludes by advocating for a more appropriate pathway for women seeking safe post-separation parenting arrangements that prioritizes the safety of women and children.

**McIntosh, J. E., Wells, Y., & Lee, J. (2016). Development and validation of the Family Law DOORS. *Psychological assessment*, 28(11), 1516.**

McIntosh et al. assess the validity of the Family Law DOORS (Detection of Overall Risk Screen) framework for identifying, evaluating, and responding to the safety and well-being risks in separated families. The authors suggest that DOORS improves upon previous tools because most tools use narrow definitions of risk; are not specific to separating couples and family court litigation; assess subjective experiences as opposed to behaviorally specific indices of abuse; fail to address co-morbidities or precipitants of abuse; are not designed for universal use; fail to screen both victims and perpetrators; and do not assess the developmental risk for infants or children.

The authors outline the three levels of DOORS. Level one involves a self-report of ten domains, including information about the individual's cultural and religious background, the process of separation, managing conflict with their children/the other parent, how the individual is coping, and how the other parent appears to be coping, general information about children involved, how the individual is managing as a parent, the child's safety, the individual's safety and behaving safely, and other stresses. Level two involves a follow-up report, highlighting risks for further inquiry and planning. Level three provides specialized assessment tools. The authors assess 660 parents screened in post-separation mediation and counseling services, finding sound psychometric results on multiple fronts, and across genders, supporting the utility of Family Law DOORS in enabling more effective and prompt whole-of-family screening.

**Neilson, L. C. (2014). At cliff's edge: Judicial dispute resolution in domestic violence cases. *Family court review*, 52(3), 529-563.**

In this article, Linda C. Neilson discusses tools to assist judicial mediators overseeing dispute resolution processes involving domestic violence to ensure such processes are fair and safe.

The author outlines the challenges with judicial dispute resolution where domestic violence is a factor, as judges must balance power so all parties can participate fully and safely. The author proposes preliminary screening for domestic violence, including an assessment of the pattern, type, frequency, severity, and effect of violence and the parties' ability to participate equitably. She recommends that out-of-court experts must collect information from participants to screen them for domestic violence. When out-of-court experts are not available, domestic violence experts and court workers should work collaboratively with mediators to develop a proper screening process. There should be continued screening throughout the mediation process to ensure safety.

In determining the level of risk, the author proposes that judges use the Danger Assessment tool. This tool is not, however, designed to assess the continuing psychological effect of past exposure to domestic violence, as that requires a contextual assessment. When there is a high level of risk, the author suggests judges should: propose a temporary suspension of contact between the parties; professional supervision by an agency trained in addressing domestic violence, and/or fast track the case for a hearing or trial.

Finally, judges should consider power imbalances, coercion, and the perspectives of each party on the suitability of mediation. Where judicial dispute resolution is deemed appropriate, the author offers a non-exhaustive checklist for judges to ensure procedural safeguards in the domestic violence context, including whether the targeted party has had the opportunity to fill out a risk self-assessment tool to assess their level of danger. Finally, in terms of outcomes, the author suggests judges must consider whether the agreement is conducive to safety and if there are any residual concerns, offering a list of factors to consider.



**Nicholls, T. L., Pritchard, M. M., Reeves, K. A., & Hilterman, E. (2013). Risk assessment in intimate partner violence: A systematic review of contemporary approaches. *Partner Abuse, 4* (1), 76-168.**

In this article, the authors review certain literature on risk assessments for Intimate Partner Violence (IPV). They analyze 39 articles created from a search of all English publications from westernized nations from 1990-2011. The authors used the following search engines: PsychINFO, ScienceDirect, and Social Sciences Citation Index. Upon review, the authors found 19 different measures of risk assessment.

Unstructured professional judgment tools involving IPV specific measures discussed in the article include: the Ontario Domestic Assault Risk Assessment (ODARA), the Domestic Violence Supplementary Report (DVSR), the Propensity for Abusiveness Scale (PAS), the Domestic Violence Screening Instrument (DVSI), the Domestic Violence Evaluation (DOVE), the Kingston Screening Instrument for Domestic Violence (KSID) and the Partner Abuse Prognostic Scale (PAPS). Unstructured professional judgment tools involving general violence measures assessed include: the Violence Risk Appraisal Guide (VRAG), the Psychopathy Checklist Revised (PCL-R), and the Level of Service Inventory Revised (LSI-R) and Level of Service Inventory Ontario Revised (LSI-OR). The article also found two structured professional judgment tools using IPV specific measures: The Spousal Assault Risk Assessment Guide (SARA), and the Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER).

The article identified two structured and unstructured victim risk assessment tools: The Danger Assessment Scale (DA) and victim appraisals. Finally, this research also identified three pilot studies involving risk assessments: Danger Assessment Scale Brief Risk Assessment for the Emergency Department, Structuring Clinical Judgement, and the Severe Intimate Violence Partner Risk Prediction Scale (SIVIPAS).

In comparing the various tools, the authors suggest that no general conclusions can be drawn, given a relatively small body of empirical evidence and procedurally significant differences across studies (such as the different definitions of IPV and length of follow up). The authors suggest that further research and advancement in methodological rigor is needed, as well as cross-validation research into different samples, such as gay, lesbian, bisexual, and trans male and female participants. Finally, the authors propose that clinicians should be careful in considering the purpose of the assessment, the context, setting and resources available when selecting which tool to use, as well as the population to be assessed.

**Nichols-Hadeed, C., Cerulli, C., Kaukeinen, K., Rhodes, K. V., & Campbell, J. (2012). Assessing danger: what judges need to know. *Family court review, 50*(1), 150-158.**

This study assessed 169 protection order petitions against an intimate partner made in a family court in upstate New York, to assess the extent to which these orders reflect levels of danger and future risk of violence. The authors interviewed participants who filled protection orders and conducted the Danger Assessment tool to assess levels of risk and compared their findings with the ultimate decision rendered by the judge on the petition for a protection order. The authors concluded that respondents did not disclose relevant information when filling protection orders. In almost 50% of the cases where female participants were assessed by the Danger Assessment tool as having a "severe" or "extreme" level of danger, they were not granted a protection order.

The authors suggest that judges do not have relevant information available to them when making such orders, as there is no standardized questioning used to complete a petition for a protection order. Petitioners who have experienced violence are not always willing to or aware of what to disclose when filling protection orders.

The authors suggest that specific questioning based on risk factors and implementing the Danger Assessment tool can help supply courts with information to ensure the safety of survivors of intimate partner violence.

**Person, C. J., Moracco, K. E., Agnew-Brune, C., & Bowling, J. M. (2018). "I Don't Know That I've Ever Felt Like I Got the Full Story": A Qualitative Study of Courtroom Interactions Between Judges and Litigants in Domestic Violence Protective Order Cases. *Violence against women*, 24(12), 1474-1496.**

This study reviewed five domestic violence protective order hearing and phone interviews with 20 District Court Judges in North Carolina to determine how courtroom interactions and the information before judges can impact protective order dispositions.

The study revealed that judges might not have enough information before them to make informed decisions on protective orders. Plaintiffs may not present this information, or judges may have insufficient time to review and hear each case.

Many of the judges interviewed recognized this limitation. They often felt like they were not getting the full picture from the plaintiff. The study also found that decisions in these hearings might be influenced by a judge's level of engagement with litigants, as well as by the judge's perception of litigant credibility. Some judges engaged more with litigants (for example, by asking probing questions to gain a more comprehensive understanding of their situations), while others did not. Some judges were influenced by how litigants presented themselves, suggesting potential biases. The authors propose that judges should receive more training related to domestic violence cases so that they can become more informed, and develop the skills to ask relevant questions to gain information from litigants in cases involving intimate partner violence.

**Peters, O., Ursel, J., Hoffart, R., Nepinak, J., Dumont-Smith, C. (2018). *Domestic Violence Risk Assessment, Risk Management and Safety Planning with Indigenous Populations* (5) London, Ontario: Canadian Domestic Homicide Prevention Initiative. Retrieved from [http://cdhpi.ca/sites/cdhpi.ca/files/Brief\\_5-Online.pdf](http://cdhpi.ca/sites/cdhpi.ca/files/Brief_5-Online.pdf)**

This report addresses how Indigenous women are at a much greater risk of experiencing domestic violence or homicide than non-Indigenous women. The report suggests that Indigenous women are three times more likely to report being a victim of spousal violence, and nearly twice as likely to report experiencing emotional or financial abuse, than non-Indigenous women. The report suggests that colonialism has and continues to play a detrimental role in contributing to this violence, as colonial policies restricted status and imposed rigid and harmful gender stereotypes. Mainstream responses to domestic violence experienced by Indigenous women are not culturally responsive and tend to focus on reducing risk factors, rather than acknowledging underlying causal factors, such as social and political determinants of safety.

The report argues that Indigenous family violence initiatives must recognize ongoing colonialism and dispossession by locating risk within colonial systems and adopting localized solutions based on self-determination and central tenants of Indigenous law. The report proposes the Life Story Board. The Life Story Board allows individuals to share stories of domestic violence verbally and non-verbally and is a potential risk assessment tool that may apply to Indigenous contexts. The Danger Assessment tool has been adapted to reflect the circumstances of on-reserve Indigenous women, resulting in the Walking the Path Together Danger Assessment (WTPT DA).

The WTPT DA identifies the risk of femicide and assists women to develop culturally appropriate safety plans. The report stresses the importance of Elder involvement and the incorporation of Gladue principles. Finally, the report briefly outlines safety planning tools for Indigenous women,

including the “You are not alone” toolkit created by the Native Women’s Association of Canada, and the Protection, Options, Planning: Taking Action Related to Safety (POP Tarts) tool.

**Talwar, M. (2007). Improving the enforcement of restraining orders after Castle Rock v. Gonzales. *Family court review*, 45(2), 322-334.**

This article assesses the impact of the United States Supreme Court’s decision in Castle Rock on survivors of domestic assault. In Castle Rock, the Court ruled that police have discretion in enforcing restraining orders that have been violated. The author argues that this ruling can have dire consequences for individuals who apply for restraining orders as a result of domestic violence when their partner subsequently violates such an order. In the wake of Castle Rock, the author argues that actuarial risk assessment data should be used to assist law enforcement in predicting potential violators of restraining orders that pose a high risk of danger. In particular, the author references two risk assessment tools that yielded positive results for predicting repeat domestic violence perpetrators: the Ontario Domestic Assault Risk Assessment (ODARA) and the Domestic Violence Screening Instrument (DVSII). The author suggests that, had one of these tools been used in the Castle Rock case, the tragic death of Ms. Gonzales’s children at the hands of her abuser may have been prevented.

Along with using risk assessment tools, the author argues that implementing a unified family court system would also improve enforcement. The Domestic Violence Court in New York is cited as a comprehensive model for appropriate service, where survivors of domestic violence can present all relevant background information to one judge, and access various services in one place.

**Zeoli, A. M., Rivera, E. A., Sullivan, C. M., & Kubiak, S. (2013). Post-separation abuse of women and their children: Boundary-setting and family court utilization among victimized mothers. *Journal of family violence*, 28(6), 547-560.**

In this article, the authors conducted in-depth interviews with 19 mothers who divorced male perpetrators of Intimate Partner Violence (IPV). The authors assess the women’s strategies to protect their children from exposure to ongoing IPV and abuse when the father had parenting access.

The authors found that the mothers turned to the family court for assistance, but often did not achieve desirable outcomes to protect their children. Of the 19 women, 10 sought assistance from the court in protecting their children. Two of these 10 women avoided attending family court because they believed that doing so could increase the risk to their children, while six of the 10 women attended court. Of the 10 who sought assistance in court, only two were successful.

The authors speculate that their success may be attributable in part to the fact that these women had independent evidence of their ex-husband’s dangerous behavior.

In contrast to the authors’ findings on child protection strategies, the authors found that when the women sought court protection for themselves, they were often successful. Nine women accessed the court to limit contact from their ex-husbands, while six filed a police report. Notably, eight women indicated that they resorted to informal means of limiting contact, such as not being present when parental access exchanges took place, either in conjunction or instead of formal mechanisms. In conclusion, the authors suggest that family courts should undertake detailed evaluations of procedures to identify, investigate, and respond to allegations of IPV and child abuse.



### 3 Research Reports

Baobaid, M. (2012). Domestic violence risks in families with collectivist values: Understanding cultural context. Retrieved from <http://onlinetraining.learningtoendabuse.ca/sites/default/files/lessons/Domestic%20Violence%20Risks%20in%20Families%20with%20Collectivist%20Values.pdf>

This paper reflects the need for specific intervention programs that address domestic violence in the context of migratory experiences. The authors seek to promote a better understanding to enable the creation of interventions related to the safety of women and children from collectivist immigrant communities that take into consideration their complex cultural and migratory contexts and experiences. The author points out the importance of understanding domestic violence in the cultural and migratory contexts to facilitate an adequate risk assessment and intervention. The article further highlights the unique difficulties faced by immigrant women experiencing domestic violence and the best strategies to assess risk and protect families within collectivist cultures. The author proposes some intervention strategies and emphasizes the need to consider coercive control as the most lethal form of domestic violence.

Cairns, K., & Hoffart, I. (2009). Keeping women alive: Assessing the danger. Alberta Council of Women's Shelters. Retrieved from [https://acws.ca/sites/default/files/documents/DangerAssessment-FullReport\\_FINAL.pdf](https://acws.ca/sites/default/files/documents/DangerAssessment-FullReport_FINAL.pdf)

This report outlines the use and efficacy of the Danger Assessment (DA) tool in nine of Alberta's women's shelters over two years. The report was used to inform women's shelters in better protecting women and children and provide evidence-based research for use by community stakeholders.

The results of the report suggest that Aboriginal women comprised the majority of respondents and were significantly more likely to report increased physical violence. Additionally, women in second stage shelters were found to be more likely to report severe violence, including violence with a weapon, than were women in the provincial emergency room. The most frequently reported type of abuse was psychological or emotional and verbal, with approximately 90% of respondents indicating these experiences. The second most frequently reported type of abuse was physical, with 81% of respondents indicating this experience. In terms of abusers, the plurality of abusers were common-law partners, followed by husbands, and with former partners and boyfriends accounting for around 25 per cent.

In terms of the efficacy, the report found that after completing the DA women were more likely to seek assistance from the police than they were prior to completing it. Eight out of 10 women indicated that they did not intend to return to their abusive relationship, although this is slightly lower than the 2008 Statistics Canada report, which indicated nine out of 10 women had made this decision. Some women found completing the DA difficult as it resulted in a feeling of regret for not having acted sooner. For many other women, however, completing the DA was an overall positive experience. The women described completing the DA as being somewhat uncomfortable, indicated that it assisted them to confirm that they made the right decision when they chose to leave. In addition, women stated that their ability to safety plan and access services was enhanced after completing the DA. Shelter workers reported a positive experience in implementing the DA, reporting higher levels of trust with the women and being able to better assess patterns and frequency of abuse. Community partner groups generally supported the DA, with justice groups indicating that the results could be of great value to police and prosecutors in helping women report and testify to incidents of abuse. The report provides numerous practice-focused and research-focused recommendations, including a recommendation that all women's shelters in Alberta implement the DA.

**Campbell, C. J., & Chatman, S. (2013). Bench Guide for Recognizing Dangerousness in Domestic Violence Cases. Retrieved from <http://dfvbenchbook.aija.org.au/dvbb/docs/Bench-Guide-for-Recognizing-Dangerousness-in-Domestic-Violence-Cases.pdf>**

This “Bench Guide” was created as a reference tool for judicial actors in the revision of civil and criminal domestic violence cases. The Bench Guide is comprised of a list of “Lethality Factors” that indicate an elevated risk of serious injury or death to a victim in a domestic violence situation. This list has examples of Lethality Factors (weighted according to descending order) that includes whether the alleged perpetrator owns a gun; perpetrator use of any illegal drugs; any increase in severity and frequency of physical violence in the past year; and perpetrator potential alcohol addition. Judges who use the Bench Guide to review individual cases can better identify potential lethality factors (uncovered by evidence) which can adequately inform what type of judicial actions such as granting of Order of Protections) should be taken in each case.

**Campbell, M., Dawson, M., Jaffe, P., & Straatman, A.L. (2016). Domestic Violence Death Review Committees: Speaking for the Dead to Protect the Living. Domestic Homicide Brief (1). London, Ontario: Canadian Domestic Homicide Prevention Initiative. Retrieved from [http://cdhpi.ca/sites/cdhpi.ca/files/Brief\\_1\\_FINAL\\_0.pdf](http://cdhpi.ca/sites/cdhpi.ca/files/Brief_1_FINAL_0.pdf)**

This issue brief provides a comprehensive review of Domestic Violence Death Review Committees (DVDRCs) in several Canadian provinces (Alberta, British Columbia, Manitoba, New Brunswick, Ontario, and Saskatchewan) and internationally (Australia, New Zealand, United Kingdom, and the United States). It includes a discussion of the benefits of DVDRCs and its major themes in recommendations. This brief contains online links of each DVDRC, and several reports, training and initiatives related to the issue. It concludes by outlying a snapshot of select research findings from the Domestic Violence Death Review Committee Data.

**Campbell, M., Hilton, N.Z., Kropp, P.R., Dawson, M., & Jaffe, P. (2016). Domestic Violence Risk Assessment: Informing Safety Planning & Risk Management. Domestic Homicide Brief (2). London, Ontario: Canadian Domestic Homicide Prevention Initiative.**

This issue brief provides an overview of the nature and kind of risk assessment tools used in the domestic violence field. It defines the difference between actuarial tools and a structured professional judgment approach. This brief also includes a summary of the most commonly used tools in domestic violence risk assessment. It further highlights the importance of the victim’s perceptions of risk when conducting a risk assessment and safety planning. The author also underlines the importance of the development of risk assessment tools that capture the needs of vulnerable populations such as Indigenous, same-sex relationships, immigrant women, and honour-based violence populations. This brief identifies the few risk assessment tools used with vulnerable populations and emphasizes the need for development and use of culturally competent risk assessment tools.

**Campbell, M., Hilton, N. Z., Kropp, P. R., Dawson, M., & Jaffe, P. (2016). Domestic Violence Risk Assessment: Informing Safety Planning & Risk Management Brief. London, Ontario: Canadian Domestic Homicide Prevention Initiative. Retrieved from <http://cdhpi.ca/domestic-violence-risk-assessment-informing-safety-planning-risk-management-brief>**

This report summarizes the nature and types of risk assessment tools, including informal approaches, actuarial tools, and structured professional judgment. Specifically, the report describes the most commonly used tools in domestic violence risk assessment, including ODARA, DVRAG SARA-V3, B-SAFER, Summary of Domestic Violence Risk Factors, DVSI-R and the Danger Assessment (DA).

The report also outlines some of the recent approaches to risk management, including the Second-Responder Program, which provides short-term interventions for victims following a

police-reported incident of domestic violence, based on the risks, needs, and responsivity (RNR) framework. The report suggests that specialized tools are needed to capture better the realities experienced by diverse populations. The report discusses how the DA has been adapted to identify severe and lethal domestic violence with immigrant women (9DA-I), women in same-sex relationships (DA-R), and Indigenous women (Walking the Path Together DA).

**Canadian Domestic Homicide Prevention Initiative. (2016, February 5). Risk Assessment, Risk Management, Safety Planning. Retrieved from <http://cdhpi.ca/risk-assessment-risk-managementsafety-planning>**

The Canadian Domestic Homicide Prevention Initiative (CDHPI) is a five-year project (2015-2020) to identify strategies and reduce risk, particularly among vulnerable populations. Such populations include Indigenous, immigrant, refugee and rural/remote communities, and children killed in the context of domestic violence. This article outlines the primary goals of the project to improve risk assessment, risk management, and safety planning for vulnerable populations and to reduce incidents of domestic violence and homicide in Canada.

In order to assess risks, this article suggests individuals must look at consistent risk factors—such as the history of domestic violence, actual separation, assess of weapons and others—and intersectional factors—such as intergenerational trauma, isolation, language barriers, cultural barriers, mistrust of the system and limited resources. The article highlights that there is no consistent domestic violence screening in the Canadian family law system, and the use of risk assessment tools is inconsistent across Canadian jurisdictions.

**Centre for Research & Education on Violence against Women & Children Domestic Violence. (2012). Risk Assessment and Management Curriculum. Retrieved from [http://onlinetraining.learningtoendabuse.ca/sites/default/files/lessons/DVRAM%20full-text%20December%202012\\_1.pdf](http://onlinetraining.learningtoendabuse.ca/sites/default/files/lessons/DVRAM%20full-text%20December%202012_1.pdf)**

This article presents a gender-based approach to risk assessment through a Domestic Violence (DV) Risk Assessment Online Training Course. The course provides training for service providers working outside the justice system, but who are likely to collaborate with the justice system when assessing and managing domestic violence cases, such as health care, social services, education, victim/survivor services workers.

The article recognizes the wide-ranging effects domestic violence has on women, as well as family members. It further presents the main core aspects of domestic violence risk assessment including consistency, transparency, and comprehensiveness as a means for informing risk management and for monitoring changes over time. The article outlines a number of dynamic, static, and victim-focused risk factors and introduces the Domestic Violence Triage Tool, which is a domestic violence risk assessment decision-making tool to assist professionals in making decisions and prioritizing actions. Finally, the article discusses some contextual issues in managing risk for domestic violence, including age, education, economic status, sexual orientation, family makeup, immigration status, disability, health, and remote isolation. The article stresses the need for information sharing and collaboration among professionals in the field when deciding how to respond to specific cases of domestic violence.

**Community Coordination for Women's Safety. (2011). High Risk Cases of Violence Against Women in Relationships: Collaborative Safety Planning. Retrieved from [http://endingviolence.org/wp-content/uploads/2011/11/High-Risk\\_Collaborative-Safety-Planning\\_rev19112014.pdf](http://endingviolence.org/wp-content/uploads/2011/11/High-Risk_Collaborative-Safety-Planning_rev19112014.pdf)**

This document was created to be used as a reference for service providers that deliver services to survivors of violence with safety concerns. It lists some of the considerations that need to be

factored into safety planning but is not meant to be an exhaustive list. It outlines some of the risk factors and challenges that need to be taken into account when creating a safety plan with survivors. This document contains a checklist of information to be considered when working towards a safety plan with survivors.

**Coupal, J. (2012). Domestic Violence Interview Guide for Lawyers. The Continuing Legal Education Society of British Columbia.**

The author presents a list of questions for family law lawyers as a foundation for conducting interviews with domestic violence survivors. The questions cover several important topics and identify risk factors associated with an increased likelihood of future violence or lethality so the interviewer can take the necessary steps in each case.

**Coupal, J. (2019). Spot The Signs – Before Someone Dies. Retrieved from <http://www.spotthesigns.ca/pdf/SpotTheSigns.pdf>**

The author states that domestic homicides are the most predictable and preventable of all murders. Coupal presents a checklist of several relationship red flags, which could indicate a real risk for escalating violence. The checklist is comprised of a set of questions with the most common risk factors identified by research where survivors can identify their level of risk based on a scoring system of seven or more positive responses to the list of questions on the checklist.

**Cross, P.C., Crann., S., Mazzuocco, K., & Morton, M. (2018). What You Don't Know Can Hurt You: The importance of family violence screening tools for family law practitioner. Canada: Department of Justice. Retrieved from <https://www.justice.gc.ca/eng/rp-pr/jr/can-peut/index.html>**

This report highlights the need for a universal family violence screening tool or procedure among family law practitioners. Although screening is an entrenched practice in professional mediation services in most areas of Canada, the report suggests that family law practitioners engage in far less formal screening, do not have particular tools at their disposal, and do not have relevant formal training or education. The report discusses and recommends two comprehensive family violence screening tools: The Mediator Assessment of Safety Issues and Concerns (MASIC) and the Partner Abuse Questionnaire. Regarding less comprehensive tools, the report mentions the use of open-ended questions from tools like DOVE, which seek to ensure greater disclosure.

The report highlights the need for Family Violence Screening Tools to reflect cultural realities and differences and to bring an intersectional understanding of the ways in which many forces can work together to increase conditions of inequality and social exclusion.

It is important to note that this report is about screening tools, which gather information and determine whether family violence is present, not about assessing the static and dynamic factors in family violence and the likelihood of recurring family violence. The report provides recommendations and a template list of questions for a two-level universal family violence screening tool for family law practitioners.

**David, R., Olszowy, L., Reif, K., Saxton, M., Campbell, M., Dubé, M., Dawson, M., & Jaffe, P. (2017). Children and Domestic Homicide: Understanding the Risks. Domestic Homicide Brief (3). London, Ontario: Canadian Domestic Homicide Prevention Initiative. Retrieved from [http://cdhpi.ca/sites/cdhpi.ca/files/Brief\\_3-Final.pdf](http://cdhpi.ca/sites/cdhpi.ca/files/Brief_3-Final.pdf)**

The authors emphasize the need to consider risks of death to children exposed to domestic violence and the need for collaboration among frontline professionals working with domestic violence families. The authors suggest information sharing when it comes to risk assessment, safety planning, and risk management and present some barriers and strategies for collaboration

and information sharing. This brief suggests an intersectional framework approach to work with children exposed to domestic violence and identify some general strategies and recommendations of its application.

**Domestic Violence Victoria. (2018). Submission to Family Safety Victoria: Family Violence Information Sharing and Risk Assessment and Risk Management Framework. Retrieved from <https://www.ntv.org.au/wp-content/uploads/2018/07/FINAL-Joint-Submission-FVIS-and-MARAM-Framework-10.7.18.pdf>**

This submission was developed by Family Safety Victoria in response to a call for submissions on the re-developed Family Violence Risk Assessment and Management Framework. The submission supports the development of risk assessment tools and practice guidelines, which had not yet been included in the policy guide. The submission advocates for the formal recognition of gender inequality as a fundamental problem perpetuating family violence and the recognition of the intersections between gender inequality and other forms of structural inequality. The submission further advocates for the formal recognition of the colonial, systemic, and structural oppression of Australia's First Peoples.

In terms of risk assessments, the submission recommends there be a minimum requirement to implement a structured professional judgment approach during risk assessments with survivors and perpetrators, and that professional judgment should be based on an intersectional analysis. The submission also lists relevant risk factors that should be included to ensure an intersectional approach, including visa status and immigration-related abuse, threats to harm children, technology-facilitated abuse, family court proceedings, and acquired brain injuries from family violence. Finally, the submission recommends that practice guidelines acknowledge that risk management begins with an assessment of the following key elements: personal circumstances and impacting factors, protective factors, intersectionality, and systemic barriers, and a sense of urgency and imminence.

**Hansen, H. & Morris, R. (2017). Managing High Risk Cases in Family Law and Criminal Law. Toronto, Ontario: The Law Society of Upper Canada. Retrieved from <https://store.lsuc.on.ca/Content/pdf/2017/CLE17-00906/CLE17-00906-pub.pdf>**

The Law Society of Upper Canada published Continuing Professional Development materials from a seminar about high-risk cases in family and criminal law. It contains essential information about the Independent Legal Advice for Survivors of Sexual Assault Pilot Program, as well as many links to useful resources. Although this document does not cover all of the information presented in the seminar, it includes the PowerPoint slides from Robert Morris' presentation about high-risk cases in criminal law and useful information related to the identification and management of high-risk cases.

**Illinois Department of Human Services. (2005). Safety and Sobriety Manual – Best Practices in Domestic Violence and Substance Abuse: Screening tools for Domestic Violence. Retrieved from <http://www.dhs.state.il.us/page.aspx?item=38489>**

This manual outlines sample screening questions for victims and perpetrators of domestic violence, including whether the victim has experienced physical or sexual violence within the past year. The screening tools also highlight "red-flags" that indicate someone is in a potential danger situation.

**Jaaber, R. A., & Dasgupta, S. D. (2002). Assessing social risks of battered women. Praxis International. Retrieved from [http://onlinetraining.learningtoendabuse.ca/sites/default/files/lessons/Assessing\\_Social\\_Risks.pdf](http://onlinetraining.learningtoendabuse.ca/sites/default/files/lessons/Assessing_Social_Risks.pdf)**

This report elucidates that effective risk evaluation requires that practitioners should evaluate not only past perpetrator's abusive patterns but also the survivor's socio-cultural practices, beliefs



and potential institutional barriers that comprise the social risks. The authors suggest that an assessment of social risks enhances the practitioner's ability to ask insightful questions to explore the various obstacles facing a woman in her decision whether to report her abuse to the police or to take other remedial measures. The report outlines a framework for safety planning, which assesses the social risks that can potentially confine a woman to her current abusive situation. Conceptualizing the framework as concentric circles or 'brick walls,' the circle closest to the woman involves immediate personal risks, such as homelessness, drug addiction, poverty, language, and sexual identity. The next wall involves institutional risks, such as risks related to child protection services, the criminal justice system and immigration status. The framework proposes that the final wall involves cultural risks, including religion, nationality, race, and class. The report suggests that practitioners should ask probing questions to understand better how each of these risks can impact survivors of intimate partner violence in deciding whether or not to report her abuse.

Jeffrey, N., Fairbairn, J., Campbell, M., Dawson, M., Jaffe, P. & Straatman, A-L. (November 2018). *Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations (CDHPVP) Literature Review on Risk Assessment, Risk Management and Safety Planning*. London, Ontario: Canadian Domestic Homicide Prevention Initiative. Retrieved from <http://cdhpi.ca/literature-review-report>

This literature review focuses on four populations that are particularly vulnerable to domestic homicide, including Indigenous peoples, immigrants and refugees, rural, remote, and northern communities, and children.

In terms of Indigenous Peoples, the review finds that there are several barriers to seeking support for Indigenous women experiencing domestic violence, including increased levels of poverty, limited social and health supports and services, institutional racism, an absence of culturally-specific services, as well as the impact of colonialism and intergenerational trauma. The article suggests that risk assessment tools be culturally informed and incorporate traditional holistic practices, citing Alberta's Walking the Path Together POP and TARTS tools as examples. Also, the article suggests that risk assessment tools for Indigenous women should include or consider the following factors which have been neglected in many risk assessment tools: geographic isolation, availability of firearms, normalization in a community, unemployment, quality of education, mental health, social and policing services, overcrowding and gender inequality.

For rural, remote and northern populations, the review notes that there are no risk assessment tools specific to this population and relevant factors must be considered when assessing risks, such as the distance from closest neighbor, access to a telephone, transportation, and social support, awareness of and willingness to use nearby services, and perpetrator abuse towards pets and farm animals. For immigrant and refugee populations, domestic violence risks can vary based on immigration status, length of stay in the host country, culture, migration processes, acculturation levels, gender role expectations, socioeconomic status, religious beliefs, and socio-cultural influences. The article endorses the Four Aspect Screening Tool (FAST) when working with minority families, which assesses four domains that function as sources of risk within minority and immigrant communities: universal, ethnocultural, migration and religious. Further, the need to assess risk pre- and post-migration is emphasized.

Finally, for children, the review found that there is a lack of standardized risk assessment tools that assess child lethality in the context of domestic violence. The article notes a risk assessment tool for children called Barnardo's Domestic Violence Risk Identification Matrix, which identifies risk to children living with domestic violence, although it is not specific to risk for lethality and also lacks sufficient research on reliability and validity measures.

Law., V. (2014, November 30). The Dynamics of Power and Control after Separation about the Family Law Process. Vancouver, British Columbia: Battered Women's Support Services. Retrieved from <https://www.bwss.org/the-dynamics-of-power-and-control-after-separation-in-relation-to-the-family-law-processes>

The article examines the phenomena of court-related abuse and harassment that happen post-separation when an abusive partner often tries to exert power and control over his victim through the family law/court process. This form of abuse is especially prevalent when a child is involved, and the abuser will use the significance of the child to continue abusing the child's mother. The author highlights two common post-separation court-related abuse tactics: withholding financial information/support and changing the parenting arrangements without notifying the other parent and against court orders.

Linton, H. A. (2017). Safety Planning in Family Law Cases: An Emerging Duty of Care for Lawyers? Toronto, Ontario: Riverdale Mediation Services. Retrieved from <https://www.riverdalemediation.com/wp-content/uploads/2017/09/Linton-Safety-Planning-in-Family-Law.pdf>

This report examines the role that lawyers play in identifying and managing high-risk cases. There is a comprehensive list of factors associated with continuing violence and risk factors associated with lethality. The report also contains a case study of a lethal occurrence with no history of domestic violence and an apparent lack of red flags, although some predictions of spousal homicide were present. This case study ended in a murder-suicide, leaving three young boys without their parents. The facts from the case study are examined against the list of factors in the report and concludes that it was a high-risk case. Finally, the report makes recommendations for safety planning in high-risk cases.

McCarthy, K. (2016, November 30). 3 apps that can help those experiencing domestic violence. Retrieved from <https://www.nuemd.com/news/2016/11/30/3-apps-can-help-those-experiencing-domestic-violence>

This article discusses three different apps designed for survivors of domestic violence. The first app, myPlan App, was developed by the One Love Foundation, in conjunction with John Hopkins University. It allows users to determine whether they are in an abusive relationship and whether the relationship carries a risk of turning abusive. The app also generates a danger level and can be used to create a safety plan, including an option for list chatting. While this app could be improved by adopting an intersectional and accessible framework, it provides a unique way for survivors to complete their own risk assessment. The second app discussed, the Sojourner Peace App, allows survivors to connect with resources after domestic violence, while the third app, Aspire News, will enable survivors to access resources and emergency services under the guise of a news interface.

Moloney, L., Smyth, B., Weston, R., Richardson, N., Qu, L., & Gray, M. (2007). Allegations of family violence and child abuse in family law children's proceedings: A pre-form exploratory study (Research Paper No. 15). Melbourne: Australian Institute of Family Studies.

This paper, which was commissioned by the Australian Government Attorney-General's Department, used court files to provide relevant baseline data of family violence to measure any future changes in light of the 2006 family law reforms as a part of the government's Family Law Violence Strategy. The researchers selected the 2003 calendar for the time period of interest to assess the prevalence and nature of allegations of family violence and child abuse; the extent to which parents provided evidence in support of their allegations, and the extent to which court outcomes of post-separation parenting disputes were related to the presence or absence of allegations.

The study assessed 300 court files and found that more than half of the cases from the Federal Court of Appeal and Federal Magistrates Court contained allegations of spousal violence or

child abuse. The most common forms of violence include physical abuse, emotional or verbal abuse, and property damage. Further, the study found that allegations of child abuse were more frequently cited in the Family Court's sample, suggesting that these allegations are often more formally litigated than mediated. In terms of outcomes, the study found that allegations of spousal violence or child abuse made a difference in case outcomes if supported by evidence and that decisions which explicitly addressed violence were more likely to involve supportive evidence. The authors speculate that where uncertainty predominates core evidentiary documents, it is more likely to minimize the violence and child abuse allegations.

Park, M., Gal, V., Odette, F., Campbell, M. E., Bell, S., Shalma, M., Cherniak, E., Javed, N., O'Leary, K., & MacQuarrie, B. (2011). *Neighbours, Friends & Families Disability Strategy Report: Voice of Women with Disabilities*. Western University: Centre for Research & Education on Violence Against Women & Children. Retrieved from [http://www.neighboursfriendsandfamilies.ca/sites/neighboursfriendsandfamilies.ca/files/NFF\\_Disability\\_Strategy\\_Report.pdf](http://www.neighboursfriendsandfamilies.ca/sites/neighboursfriendsandfamilies.ca/files/NFF_Disability_Strategy_Report.pdf)

For this report, the Centre for Research and Education on Violence Against Women and Children (CREVAWC) created an advisory committee to address the unique challenges faced by women with disabilities and Deaf women, and to understand how the Neighbours, Friends and Families (NFF) campaign for women who have faced domestic violence can be adapted to meet women's unique needs. The report outlines the types of abuse experienced by women with disabilities, including denial of services, blame, financial abuse, physical and psychological abuse. The report stresses the need to make services accessible to those who are visually impaired or have a lower level of language proficiency, and that safety planning recommendations need to be modified to account for barriers caused by disability.

The report includes several suggestions on how to minimize barriers to assistance, including using various media sources and styles to deliver messages that can be accessed by a broader population. It suggests the creation of online tools with basic concepts to teach women about domestic violence and the creation of apps and websites that meet accessibility standards. The report emphasizes the need for an intersectional lens when adopting these measures as many women experience barriers related to other aspects of their identity, beyond disability, including age, race, and poverty.

Robinson, E. & Moloney, L. (2010). *Family violence: Towards a holistic approach to screening and risk assessment in family support services*. AFRC Briefing Paper, No. 17. Retrieved from <http://www.aifs.gov.au/afrc/pubs/briefing/b017>

This paper presents an overview of current research and literature specific to family violence screening and risk assessments to assist service providers in utilizing appropriate tools when assessing family violence cases. The paper suggests that there are a number of relevant considerations when determining the best methods of screening for family violence, including whether multiple workers should screen for family violence; the formalising of the screen and procedures; the limited evidence base for the most effective tools; the ability of victims to predict future risk; and what the tools are measuring. The authors suggest that without information about the validity and reliability of the tools, it may be difficult to confirm whether any of these factors are being measured and to what extent.



Rösemann, U., Vargová, B. M. & Webhofer, R. (2011). PROTECT- Identifying and Protecting High Risk Victims of Gender Based Violence - An Overview. Vienna, Austria: Women Against Violence Europe. Retrieved from [http://files.wave-network.org/trainingmanuals/PROTECTI\\_Protecting\\_High\\_Risk\\_Victims\\_2011\\_English.pdf](http://files.wave-network.org/trainingmanuals/PROTECTI_Protecting_High_Risk_Victims_2011_English.pdf)

This research project report called PROTECT was conducted by the European network WAVE- Women Against Violence Europe. This network is comprised of several agencies that deliver services to women and children victims of violence in the 27 countries of the European community. The project focused on research into domestic violence homicides/femicides and attempted murder homicides/femicides, a literature review of risk assessment studies and research on risk management protocols and delivery of support services for high-risk victims.

This report provides a summary of intimate partner violence and intimate partner femicide, risk assessment studies, as well as research on standards of protection and supports available for survivors. The report presents that the most common approaches in assessing intimate partner violence are spousal assault scales and risk scales designed for general or violent recidivism. The report outlines current risk assessment instruments and describes the predictive accuracy of each tool, as well as the systems instituted in eight countries to protect gender-based intimate partner violence. Specifically, the report discusses several risk identification models, including the DASH (Domestic Abuse, Stalking and Harassment and Honour Based Violence) model, which is the most commonly used tool in the United Kingdom. Finally, the report makes several recommendations, including the creation of a joint strategy among core agencies that deliver services to survivors of gender-based violence.

Rossiter, K. R., Yercich, S., Baobaid, M., Al Jamal, A., David, R., Fairbairn, J., Dawson, M., & Jaffe, P. (2018). Domestic Homicide in Immigration and Refugee Populations: Culturally-Informed Risk and safety Strategies. Domestic Homicide Brief 4. London, Ontario: Canadian Domestic Homicide Prevention initiative. Retrieved from [http://cdhpi.ca/sites/cdhpi.ca/files/Brief\\_4-Online-Feb2018-linked-references.pdf](http://cdhpi.ca/sites/cdhpi.ca/files/Brief_4-Online-Feb2018-linked-references.pdf)

This brief provides information on domestic violence and homicide among immigrant and refugee women and elucidates numerous barriers that this population faces to access services and supports. It discusses the need to have an appropriate culturally-informed approach when conducting a risk assessment, risk management, and safety planning. It includes a list and brief explanation of five culturally-specific Domestic Violence Risk Assessment tools used worldwide and a list of community-based research and resources.

Toivonen, C & Backhouse, C. (2018). National Risk Assessment Principles for domestic and family violence. Sydney, Australia: Australia's National Research Organisation for Women's Safety Limited. Retrieved from [https://dh2wpaq0gtxwe.cloudfront.net/ANROWS\\_NRAP\\_National%20Risk%20Assessment%20Principles.1.pdf](https://dh2wpaq0gtxwe.cloudfront.net/ANROWS_NRAP_National%20Risk%20Assessment%20Principles.1.pdf)

This report involves a discussion of the National Plan to Reduce Violence Against Women and Children in Australia. The National Plan identifies domestic and family violence and sexual assault as gendered crimes, with some of the most pervasive forms of violence being experienced by women in Australia. While the report acknowledges that most intimate partner violence risk assessments are based on heterosexual partner violence, it suggests that there is emerging evidence of comparable rates of violence for LGBTIQI-identifying people.

The report indicates that some of these types of abuse are unique to the LGBTIQI community, and suggests that risk assessments should include an examination of static and dynamic risk factors, patterns of perpetrator behaviour, patterns of violence, and use of coercive control. The report further identifies a need to develop integrated strategies and service responses to reduce further violence, suggesting a common language of risk that is standard across agencies to ensure consistency.

Wundersitz, J. (2010). Indigenous perpetrators of violence: Prevalence and risk factors for offending. Retrieved from <http://www.aic.gov.au/publications/current%20series/rpp/100120/rpp105.aspx>

This report discusses Indigenous perpetrators of violence and attempts to quantify both the prevalence and nature of violent behaviour. It outlines the fact that Indigenous persons are substantially more likely to be charged with violent offences than non-Indigenous peoples and that most acts of violence involving an Indigenous victim occurred at the hands of an Indigenous perpetrator.

The report identifies the following individual factors to be considered: sex, youth, Aboriginal status, alcohol misuse, illicit drug use, childhood experiences of violence and abuse, exposure to pornography, lower education, employment, income and housing, poor physical and mental health, geographic location and a lack of access to services. The report also outlines community and historical factors involving the detrimental impact of colonial structures. It also acknowledges the gaps in the current body of literature, including other Indigenous population surveys, and proposes that more attention must be paid to identifying protective factors for Indigenous violence, rather than risk factors.

## 4 International Risk Assessment, Risk Management, and Safety Planning Tools and Frameworks

### Australia

**Government of Western Australia Department of Communities Child Protection and Family Support. (2016, December 29). Common Risk Assessment and Risk Management Framework: The Western Australian Family and Domestic Violence Common Risk Assessment and Risk Management Framework. Retrieved from <https://www.dcp.wa.gov.au/CrisisAndEmergency/FDV/Pages/CRARMF2.aspx>**

The Common Risk Assessment and Risk Management Framework (CRARMF) is based on the Common Risk Assessment Framework (CRAF) and modified for the Western Australian context. It focuses on some of the particular needs of Western Australian women and children, including access to appropriated services, referrals, and strategies. The framework seeks to promote a consistent and collaborative approach to responding to family and domestic violence among practitioners and specialists across a variety of sectors, including government, mainstream, specialist, and community sector. The framework consists of five components: (1) setting common definitions and understanding; (2) commitment to perpetrator accountability; (3) response continuum; (4) creating a shared set of principles; and (5) creating common minimum standards and practice requirements.

**The Lookout. (2019). Risk Assessment and Management Panel. Retrieved from <https://www.thelookout.org.au/family-violence-workers/risk-assessment-management/risk-assessment-and-management-panels-ramps>**

This domestic and family violence advocacy agency website describes the structure and purpose of Risk Assessment and Management Panel (RAMP), which is a panel consisting of nine key agencies and organizations that contribute to the safety of high-risk women and children in Victoria, Australia. There are 18 RAMPs that meet once a month across the state to share information and take coordinated steps to keep high-risk women and children safe. RAMP exists to deal with cases that are urgent and where victims face an imminent threat to their safety. RAMP provides a comprehensive risk assessment and coordinated action plan to lessen or prevent threats.

**Victorian State Government. (2014). Family Violence Risk Assessment and Risk Management. Retrieved from <http://ecraf.globalvision.com.au/module01/>**

The Victorian Government provides free online training available for service providers in the domestic violence sector. It includes two sessions: the core knowledge section offers information on family violence, and the practice guide provides risk assessment training information with a focus on the most relevant risk assessment tools.

**Victoria State Government. (2017, September 19). Family Violence Risk Assessment and Risk Management Framework. Retrieved from <https://providers.dhhs.vic.gov.au/family-violence-risk-assessment-and-risk-management-framework>**

The Family Violence Risk Assessment and Risk Management Framework was developed to guide standard approaches to assessing family violence risks and collective responses of risk management services and strategies across the state of Victoria, Australia. It includes a manual, links to training, fact sheets, screening protocol, and a risk assessment tool.

## Canada

**Alberta Council of Women's Shelters & Campbell, J. (2014). Walking the Path Together: Danger Assessment Phase II. –Edmonton, Alberta: The Alberta Council of Women's Shelters. Retrieved from <https://acws.ca/collaborate-document/2516/view>**

The Walking the Path Together, Danger Assessment (WTPT DA) was adapted from the original Danger Assessment tool, and to aim to incorporate the unique nuances of on-reserve daily situations that women face. It includes cultural abuse and incorporates the four quadrants to assess risks and develop cultural appropriated approaches to support women and their families.

This resource outlines the WTPT Danger Assessment, including the use of seasonal calendars, and modifications made to the Danger Assessment to make it culturally competent. It describes the various questions added to the original DA Questionnaire, the use of Danger Assessment Circles and the Danger Assessment Caregiver Questionnaire.

**Alberta Council of Women's Shelters, Cunningham, A. & Baker, L. (2014). Walk Proud, Dance Proud: Footprints on a Healing Journey. A Discussion Guide to Walking The Path Together to Reclaim the Teachings of our First Nations Children 2014. Edmonton, Alberta: The Alberta Council of Women's Shelters. Retrieved from <https://acws.ca/collaborate-document/2514/view>**

This project was funded by the Alberta Government safe community's innovation fund and National Crime Prevention centre with the Government of Canada. The project guide is comprised of four sections. The first section, called "Dreaming" describes the development of the Walking the Path Together tool and the shared vision for children, families, and communities, as well as information that can guide shelters in a discussion about how this tool could be used in communities.

The second section, "Partnering," describes the process of bringing families onto the team of support offered by the Eagle Feather Worker and shelter colleagues.

The third section, "Learning," provides frameworks for understanding the gifts and needs of each child through listening and respect. Finally, the last section, "Healing," outlines strategies for highlighting and strengthening a child's strengths to overcome the influence of violence in their lives.

**Baobaid, M., & Ashbourne, L. M. (2016). Enhancing culturally integrative family safety response in Muslim communities. Taylor & Francis.**

The Four Aspects Screening Tool (FAST) is a domestic violence risk assessment tool developed within a collectivist culture lens and intended for use with minority, newcomer, and immigrant groups. The tool allows for an analysis of how ethnocultural, religious faith, and migration experiences can play a role as stressors of risk within families.

**Ending Violence Association of BC. (2015). Interagency Case Assessment Team Best Practices: Working Together to Reduce the Risk of Domestic Violence. Victoria, British Columbia: Ministry of Children and Family Development. Retrieved from <http://cdhpi.ca/sites/cdhpi.ca/files/ICAT%20Best%20Practices%20FINAL%20August25.pdf>**

The Interagency Case Assessment Team (ICAT), Best Practices Manual, was developed in consultation with and with the involvement of criminal justice stakeholders, child welfare organizations and community-based anti-violence programs. The goal of the ICAT is to increase victim safety in domestic violence cases by creating standard definitions and approaches to risk management and safety protocols among service providers.

## New Zealand

New Zealand Ministry of Justice. (2019). Family Violence Risk Assessment and Management Framework: A common approach to screening, assessing and managing risk. Retrieved from <https://www.justice.govt.nz/assets/Documents/Publications/family-violence-ramf.pdf>

The framework establishes a shared national approach to screening, assessing, and managing family violence risk. It includes crucial information about the dynamics and types of family violence, its effects on children, parenting issues and its intergenerational nature. The framework also outlines service provision; information sharing; and practice standards when identifying, assessing, and responding to family violence. Family violence agencies, services, and practitioners will have a consistent, integrated, and proactive framework that will result in the more collaborative and effective delivery of services for victims.

New Zealand Police. (2019). Integrated Safety Response (ISR) pilot. Retrieved from <https://www.police.govt.nz/about-us/programmes-and-initiatives/integrated-safety-response-isr-pilot>

Integrated Safety Response is a multi-agency framework in New Zealand led by the police to ensure the immediate safety of survivors of violence and children and to work with perpetrators to prevent further violence. The concept of this framework relies on an intensive case management approach across different sectors and professionals to mitigate the risks of victims of domestic violence.

## United States

Glass, N. & Campbell, J. C. (2007). DANGER ASSESSMENT – Revised For Use in Abuse Female Same-Sex Relationships. Baltimore, Maryland: John Hopkins University, School of Nursing. Retrieved from <https://www.dangerassessment.org/uploads/SameSexDangerAssessment.rev2007.pdf>

The Danger Assessment (DA-R) is intended to predict the reoccurrence of domestic violence in abusive female same-sex relationships. The revised tool contains eight original Danger Assessment risk factors and 10 new risk factors relevant to same-sex relationships.

Messing, J. T., Glass, N. E., & Campbell, J. C. (Undated). Danger Assessment for Immigrant Women. Retrieved from <https://www.dangerassessment.org/uploads/DA-I-%20English.pdf>

The Danger Assessment for Immigrant Women (DA-I) is a culturally-competent risk assessment version of danger assessment developed by Dr. Jacquelyn Campbell.

It intends to predict domestic violence reoccurrence and severe domestic violence among immigrant women. In addition to the 15 risk factors from the original Danger Assessment, DA-I has 11 culturally-specific risk factors related to immigrant and refugee women.

Praxis International. (2019). Documents and resources developed for communities adapting, implementing, and sustaining The Blueprint for Safety. Retrieved from <https://praxisinternational.org/blueprint-home/blueprint-materials/>

Blueprint for Safety Framework was created after the completion of an extensive literature review and consultations with researchers on risk assessment. The framework includes the Practitioner's Guide to Risk and Danger in Domestic Violence Cases and the Training Memo-Risk and Dangerousness: Managing Severe or Lethal Violence.

The Minnesota legislature developed the Blueprint for Safety, which is a framework used by a variety of service providers, practitioners, victim advocates, and community agencies (at all levels), to tackle domestic and family violence in a coordinated and collaborative manner.

The Blueprint developed standard protocols, interagency information sharing and policies to (a) maximize the state's ability to gain a measure of control over a domestic violence offender; (b) use that control to intervene quickly when there are acts of violence; and (c) shift the burden away from the victim of violence to the system. The Framework includes the 'Practitioner's Guide to Risk and Danger in Domestic Violence Cases' and the Training Memo 'Risk and Dangerousness: Managing Severe or Lethal Violence.' The Framework is based on six key principles that are essential to include in any intervention strategy that seeks to maximize safety for domestic violence victims and hold offenders accountable, while also offering them opportunities to change.

**Davis, G., Loretta, F., & Ver Steegh, N. (2015) Practice Guides for Family Court Decision-Making in Domestic Abuse Related Child Custody Matters (Forms and Illustration). Minneapolis, Minnesota: Battered Women's Justice Project.**

This work is a compilation of practice guides for family court professionals involved in domestic-abuse-related child custody matters. Each practice guide was developed by the Battered Women's Justice Project.

Part I sets out a four-part framework for identifying, understanding, and accounting for abuse: 1) identify the domestic abuse; 2) define the nature and context of abuse; 3) evaluate the implications of abuse; and 4) account for the abuse in actions and decisions. The practice guides within the remainder of the report correspond to at least one part of this framework, thus providing a set of tools to assist the reader in implementing the framework throughout the life of a family law file.

The following practice guides are included in the report:

- Initial Domestic Abuse Screening Guide;
- Domestic Abuse Interview Guide;
- Parenting in the Context of Domestic Abuse - Set of six charts to help analyze and assess the parenting behaviours of the abusive parent, and the impact(s) of abuse on the children, the victim parent, and the co-parenting relationship;
- Case planning guides for evaluators/guardians and legal professionals/advocates (Domestic Abuse Planning Guide for Evaluators and GALs; and Domestic Abuse Planning Guide for Legal Professionals);
- Readiness for Mediation Assessment Guide;
- Readiness for Co-Parenting Assessment Guide; and
- Guide to Appropriateness of Early Neutral Evaluation.

## United Kingdom

**Kropp, P. R., Belfrage, H., & Hart, S. D. (2013). Assessment of risk for honour based violence (PATRIARCH): User manual. Vancouver: ProActive Resolutions Inc.**

This tool contains 15 risk and vulnerability factors for patriarchal violence where honour is a motive. It includes family dynamics as potentially part of the threat of violence.

**Reducing the Risk of Domestic Abuse. (2019). MARAC. Retrieved from <https://www.reducingtherisk.org.uk/cms/content/marac>**

The Multi-Agency Risk Assessment Conference (MARAC) is a risk management approach developed to monitor and share information where a high-risk domestic violence case is identified. Representatives of the local police, Independent Domestic Violence Advisors (IDVAs), child protection, housing practitioners, health practitioners, probation officers, and other specialists meet to discuss and share relevant information about a victim and potential risks related to the case. The goal is to create an information sharing system and options for discussion of the



enhancement of victim's safety using a coordinated response among service providers.

Richards, L. (2009). Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH, 2009) Risk Identification and Assessment and Management Model. Retrieved from <https://www.dashriskchecklist.co.uk/wp-content/uploads/2016/09/DASH-2009.pdf>

The Domestic Abuse, Stalking and Honour Based Violence (DASH 2009) Risk Identification, Assessment and Management Model is a risk assessment and management model for domestic abuse developed in the United Kingdom and used by police services and gender-based violence service providers. It captures risk identification, stalking and harassment behaviours, and honour-based violence.

This tool comprises a combination of a risk management approaches called the RARA model of risk management (Remove the risk, Avoid the risk, Reduce the risk, and Accept the risk). It creates a common language across agencies and thus makes the risk identification and assessment process more consistent and streamlined. DASH is a checklist that helps practitioners identify domestic violence victims at the highest risk of harm whose cases should be referred to a Multi-Agency Risk Assessment Conference (MARAC) meeting to manage the risk. DASH identifies some high-risk factors (coercion, threats, intimidation, physical, sexual, emotional, and economic abuse) that are associated with serious violence and murder. Practitioners must be aware.



## 5 Government Guides

**AVERT Family Violence. (2010). Screening, Risk Assessment and Safety Planning. Australian Attorney-General Department. Retrieved from [https://www.avertfamilyviolence.com.au/wp-content/uploads/sites/4/2013/06/Screening\\_Risk\\_Assessment.pdf](https://www.avertfamilyviolence.com.au/wp-content/uploads/sites/4/2013/06/Screening_Risk_Assessment.pdf).**

This report canvasses the knowledge and procedures that will minimize risk and ensure the safety of all parties involved in separation and family law services in Australia. The report outlines risk factors of family violence, including a history of previous assaults or threats, instability of employment and income, drug and alcohol misuse and separation, among others. The report proposes that screening, risk assessment, and safety planning are complementary processes that support family law professionals to fulfill their obligations to ensure safe outcomes. The report suggests there is no legally required screening tool within the family law system and outlines several benefits to screening, including supporting disclosure and documentation, highlighting, however, that the screening process must be followed by appropriate responses and protocols.

In terms of risk assessments, the report suggests that, in contrast to screening, risk assessments are not static and must be part of an ongoing process of evaluation of risks. The report outlines several risk assessment factors, as well as distinct factors when assessing lethality in particular. Along with risk factors, the report proposes that practitioners assess protective factors relevant to each individual. The report discusses the Danger Assessment (DA) scale and the Spousal Assault Risk Assessment (SARA) tool as two existing instruments that have widely acknowledged credibility. The report stresses the need for safety planning in conjunction with risk assessments. In terms of reflection of the implications and risk assessment for the family law system, the report suggests that skill development, time allocation, and protocols for screening are needed.

**Brown, M. (2011). Family Violence Risk Assessment: Review of International Research. New Zealand Government.**

This report was generated by the New Zealand Police to reduce serious harm and lethality from family violence. It outlines international research on family violence risk assessments, with an emphasis on their applicability to law enforcement. Specifically, the report discusses various studies outlining factors indicating risk of future violence, models of risk assessment, different risk assessment tools that have been developed, and the issues surrounding their use. In terms of risk assessment tools, the report assesses lethality assessment instruments, assault assessment instruments, and other assessments generated by or for the police. In determining which tool is optimal, the report outlines scholarly literature for assessing the quality and predictive accuracy, noting, however, that no single tool has been perfected, although the ODARA was cited as having the most scholarly support for predicting family violence recidivism. The report suggests that the choice of risk assessment tool should depend on the purpose and context of the assessment, the target population, and the role and experience of the proposed assessor. Finally, the report outlines the need to link risk assessment with a plan of risk management, including risk communication, training, and planning.

**Department of Justice, Canada. (2013). Chapter 2 - Risk assessment. Making the Links in Family Violence Cases: Collaboration among the Family, Child Protection and Criminal Justice Systems. Volume I. Report of the Federal-Provincial-Territorial (FTP) Ad Hoc Working Group on Family Violence (pp. 34-53). Ottawa, Ontario: Government of Canada. Retrieved from <https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/mlfvc-elcvf/p4.html>**

This report assesses risk assessment tools employed to identify and mitigate risk for victims of family violence. The report references the Inventory of Spousal Risk Assessment Tools Used in Canada (accessible at [https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr09\\_7/rr09\\_7.pdf](https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr09_7/rr09_7.pdf)), which



lists the tools and investigative protocols used in the country for situations of family violence. The report outlines various screening methods used across different provinces.

The report discusses how recent changes to British Columbia's Family Law Act require at least 14 hours of family violence training for family dispute professionals and that preliminary family violence screening is conducted with all clients who contact the family justice centre in that province. The report indicates that all Nova Scotia police agencies have adopted the Ontario Domestic Assault Risk Assessment (ODARA) tool as a means for detecting recurring violence. The report also outlines the Australian framework, Detection of Overall Risk Scores (DOORS); a framework used to detect risk to well-being and safety of families. DOORS involves three segments. The first segment, "DOOR 1," involves a risk assessment questionnaire completed by clients. "DOOR 2" involves a questionnaire completed by practitioners after they have followed up on areas of risk identified in the first questionnaire. Finally, "DOOR 3" identifies resources to respond to the identified levels of risk.

The report also raises some concerns about the applicability of risk assessment tools for diverse populations. The report identifies the possibility that social, historical, and situational context will be lost when assessing an individual through a risk assessment tool. Additionally, the report recommends that safety planning be completed about the unique circumstances and diverse backgrounds of clients.

**Department of Justice, Canada. (2017, April 19). Violence: Quebec. Programming Responses for Intimate Partner Violence. Retrieved from <https://www.justice.gc.ca/eng/rp-pr/jr/ipv-vpi/p12.html>**

This article summarizes the strategies outlined in the Government of Quebec's "Action Plan on Domestic Violence." This Action Plan is the third to be developed and includes 135 commitments in four strategic directions, including (1) prevention of violence and promotion of non-violence; (2) early detection and identification; (3) psychosocial intervention and (4) police, judicial and correctional intervention.

Fundamental principles guiding this Action Plan include the idea that the elimination of conjugal violence depends primarily on achieving gender equality, and that any intervention strategies developed to mitigate Intimate Partner Violence (IPV) must be based on respecting the independence of survivors and their ability to regain control over their lives. The Action Plan also seeks to mitigate the effects of IPV on children via group therapy treatment sessions. The sessions aim to identify the various forms of violence against children, the consequences of violence, the intergenerational cycle of violence, and developing a healthy co-parenting relationship with the mother. The Action Plan also outlines an approach to working with First Nations and Inuit cultures by adapting intervention tools for IPV and promoting consistency and making interventions complementary in all sectors. The Action Plan outlines risk assessment procedures/tools that stakeholders such as the police need to use when investigating domestic violence incidents. There are organizations across the province that offer programs for perpetrators of IPV such as group intervention programs, violence prevention for teens, and therapeutic services for men with mental health problems. The programs offered by IPV agencies include telephone interventions; home and preparedness group sessions; prior therapy to group therapy; individual therapy; and post-program monitoring.

**Family Safety Victoria. (2018). Family Violence Risk Assessment and Risk Management Policy and Practice Consultation Draft. Australia: Victoria State Government. Retrieved from [https://www.vic.gov.au/system/user\\_files/Documents/fv/Family%20Violence%20Risk%20Assessment%20and%20Risk%20Management%20Policy%20and%20Practice%20Document.pdf](https://www.vic.gov.au/system/user_files/Documents/fv/Family%20Violence%20Risk%20Assessment%20and%20Risk%20Management%20Policy%20and%20Practice%20Document.pdf)**

This report outlines the updates to risk assessment and management policies and practices for all service providers who provide support services to families experiencing violence. The report is based on four framework pillars: a shared understanding of family violence; a consistent and collaborative practice; roles and responsibilities; and systems, outcomes, and continuous improvement. The authors note that family violence is gendered, and responses to family violence should address power imbalances and gender inequality. They propose that program and service delivery to Aboriginal communities should be culturally safe and sensitive. Furthermore, the authors advocate for the empowerment and inclusion of survivors in measures taken to ensure their safety. The Framework outlined requires the use of risk identification, screening and assessment approaches that are consistent with evidence-based indicators of risk.

**Family Violence Coordination Unit. (2007). Family violence risk assessment and risk management: Supporting an integrated family violence service system. Melbourne, Australia: Department for Victorian Communities. Retrieved from <https://providers.dhhs.vic.gov.au/sites/dhhsproviders/files/2017-06/family-violence-risk-assessment-risk-management-framework.pdf>**

This report, generated by the Victorian Government, provides a comprehensive framework, designed to be used by a range of professionals, including violence against women service providers, the police, and courts, to create an integrated family violence service system. The framework involves six components to identify and respond to victims of family violence. These components include the following: a common understanding of risk and family violence across professionals in the field, a standardised approach to conduct risk assessment, appropriate referral protocols and information sharing, risk management protocols that include ongoing assessment and case management, consistent data collection and analysis to ensure that the system is responsive to current needs and priorities, and quality assurance strategies and measures that underpin a philosophy of continuous improvement.

The report also provides three accompanying practice guides that involves the identification of family violence to assist mainstream professionals who encounter individuals they believe to be experiencing family violence. The guide outlines consistent indicators and advice on identification, as well as questions that could be asked to determine whether there is family violence. The second practice guide involves preliminary assessment when family violence has been identified. This guide is meant to assist professionals who work with victims of family violence, but it is not their core practice focus, including police and court staff, community legal clinics, and housing services workers. Finally, the third practice guide involves comprehensive assessment after family violence has been confirmed.

This guide is meant to assist specialist family violence professionals in detailed safety planning and case management. Each of these practice guides outlines specific templates to assist practitioners. The report suggests that any risk assessment tool must be administered within the framework to have a shared understanding and approach to service delivery.

**New South Wales (NSW) Police Force. (2015). Statewide Implementation of the Domestic Violence Safety Assessment Tool (DVSAT). Retrieved from [https://www.police.nsw.gov.au/\\_data/assets/pdf\\_file/0009/349434/NSWPF\\_DVSAT\\_SUMMARY\\_SHEET.pdf](https://www.police.nsw.gov.au/_data/assets/pdf_file/0009/349434/NSWPF_DVSAT_SUMMARY_SHEET.pdf)**

The article outlines what the Domestic Violence Safety Assessment Tool seeks to accomplish and what it means for police from an operational perspective. Purported benefits of the tool include the creation of a consistent approach used by police to identify the level of harm to

domestic violence victims; increased information exchange between government agencies; improved agency accountability; reduced re-victimization; and improved victim safety. The tool was developed for police to identify the level of threat of future harm (specifically severe injury or death) to a survivor of domestic violence and consists of two parts (A & B). The tool identifies a victim of domestic violence at one of two threat levels – “serious threat” or “a threat.”

If the victim is deemed to be at a “serious threat” level, they will automatically be referred to an agency that will develop a safety action plan to reduce the risk of harm. Part A contains 25 risk identification questions asked of people in intimate partner relationships and which are based on five basic themes: (1) Background/current environment of the offender and partner; (2) threat of violence; (3) dynamics of the specific relationship; (4) the presence of children; and (5) sexual behaviors / assaults. Part B is intended to capture information such as the level of fear by the victim and the reasons for those fears. Most importantly, the tool allows a police officer to use their professional judgment if they see fit to do so.

**Northcott, M. (2013). Intimate partner violence risk assessment tools: A review. Ottawa, Ontario: Government of Canada. Retrieved from [https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr12\\_8/rr12\\_8.pdf](https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr12_8/rr12_8.pdf)**

This report outlines all risk assessment tools for intimate partner violence, up until 2013, assessing their strengths and weaknesses. The report outlines common risk factors for intimate partner violence, including the history of violence or abuse towards family members and intimate partners; the escalation of violence; previous criminality; general antisocial problems; substance abuse problems; mental health problems; relationship problems; and attitudes that support violence towards women. The report elucidates three categories of risk assessment tools: those involving unstructured clinical judgment, structured clinical judgment, and actuarial approaches. Examples of structured clinical judgment tools include SARA, the DVSI, and the DA, while examples of the actuarial approach include the ODARA and DVRAG.

**Winkworth, G., & McArthur, M. (2008). Framework for Screening, Assessment and Referrals in Family Relationship Centres and the Family Relationship Advice Line. Canberra, Australia: Attorney-General's Department. Retrieved from <https://www.ag.gov.au/FamiliesAndMarriage/Families/FamilyRelationshipServices/Documents/Framework%20for%20Screening%20Assessment%20and%20Referrals%20in%20FRCs%20and%20FRAL%20July%202008.pdf>**

This report outlines best practices for screening and assessment for the Family Relationship Centres and Family Relationship Advice Line in Australia. The primary goal is to provide assistance with information and appropriate referrals and to assist separating families achieve workable parenting arrangements outside the court system through referral and dispute resolution services. The report suggests that “screening” involves a triage function that identifies the inquiry or assistance being sought. The report highlights the importance of screening for the existence or likelihood of domestic and family violence, the risk of child abuse or abduction, the risk of harm, and the urgency of required action.

In contrast, “assessment” involves the process that enables a more detailed analysis of client strengths and needs, including the need for ensuring safety. The report proposes questions that can be used to engage parents and screen for risks to safety, as well as key components that should be identified for a thorough assessment. The report includes internationally used risk assessment tool domains such as the Danger Assessment, SARA, and DV MOSAIC; however, it emphasizes that practitioners should focus on facilitating dialogue with parents rather than merely ticking boxes. Finally, the report provides detailed information on what practitioners can do when they find violence is present, identifying barriers to accessing services and providing appropriate referrals to overcome these barriers.



# Court Observation Report

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- 1 Court Observation Purpose
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- 3 Analysis
  - Type of violence
  - Demographics
  - Percentage of request for an ex-parte/restraining order
  - Percentage of granted ex-parte/ RO
  - Percentage of survivors who had police involvement or protection orders in place from criminal court
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- 4 Limitations of the observation process
- 5 Figures
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# 1 Court Observation Purpose

The objective of the court observation is to provide input on the development of the risk assessment tool in family court. This court observation report highlights how family court stakeholders identify and assess intimate partner violence cases in family court and potential usage of tools that can assess intimate partner violence and high-risk situations. Additionally, the court observation provides valuable insights on how a risk assessment tool for survivors of violence could be integrated into court stakeholders' practice when providing services to survivors of intimate partner violence.

## 2 Data Collection

A court observation form was designed to facilitate standard data collection in the Family Courts. The Barbra Schlifer Clinic is working with close partnership with agencies that deliver the Family Court Support Program in Peel and Durham Region. The Family Court Support Program supports all women engaged in a Family Court process who have experienced violence.

Project coordinator and family court support workers utilized the court observation form to gather data through observation of Intimate partner violence assessments and service delivery in family courts from March to June 2019. Client's personal information will remain anonymous, and the report will present findings protecting client's confidentiality.

## 3 Analysis

Subcategories were created to facilitate a more comprehensive analysis of the court observation process and were based according to the court observation form. The subcategories were divided into the following:

- type of violence,
- demographics,
- percentage of request for an ex-parte/ restraining order,
- percentage of ex-parte motions granted,
- percentage of survivors who had police or criminal court protection orders in place from criminal court staff intimate partner violence assessments, and
- usage of risk assessment tool.

### Type of violence

Survivors looking for family court legal advice and court services disclosed various kinds of abuse, including emotional, verbal, financial, sexual, and physical abuse. One case involved an amber alert notification and following charges of child abduction of survivor's former husband, and another client was a victim of human trafficking.

### Demographics

Demographics data were collected according to the following categories: race, age, number of children, survivor's source of income and annual income, and level of involvement of survivors with the family court system. A summary of the findings can be found below with demonstrated figures of each category.



**Percentage of request for an ex-parte/ restraining order**

It was noted that about half of the survivors observed requested an ex-parte motion/ restraining order from family courts, about 40% of survivors were seeking information on how to start the family court process, 5% had ongoing litigation, and one survivor requested information and advice on how to file a motion to change.

**Percentage of granted ex-parte/ RO**

The majority of ex-parte motions request were denied, and survivors were referred to support services, mainly to the family court support workers. Less than 5% of survivors observed were approved for ex-parte motions, and the survivors that were approved were granted temporary custody, no access, and restraining orders.

**Percentage of survivors that had police involvement or protection orders in place from criminal court**

About 50% of survivors indicated that they have never contacted the police to report the abuse, 15% of survivors stated that they contacted the police, but no charges were laid, and about 35% stated that they had contacted the police and criminal court protection orders were in place. Most criminal charges disclosed by survivors were assault, death threat and one charge with child abduction.

**Usage of a risk assessment tool**

During the court observation period, it was noted that court stakeholders did not use any formal risk assessment tool to assess high-risk situations.

## 4 Limitations of the observation process

This represents a preliminary report intended to gain some perspective about the usage of a risk assessment tool in family court that aim to identify intimate partner violence high-risk cases. As such, it had a relatively short window of observation and contained some limitations that can inform the design of more comprehensive court observation process.

# 5 Figures

Figure 1: Race

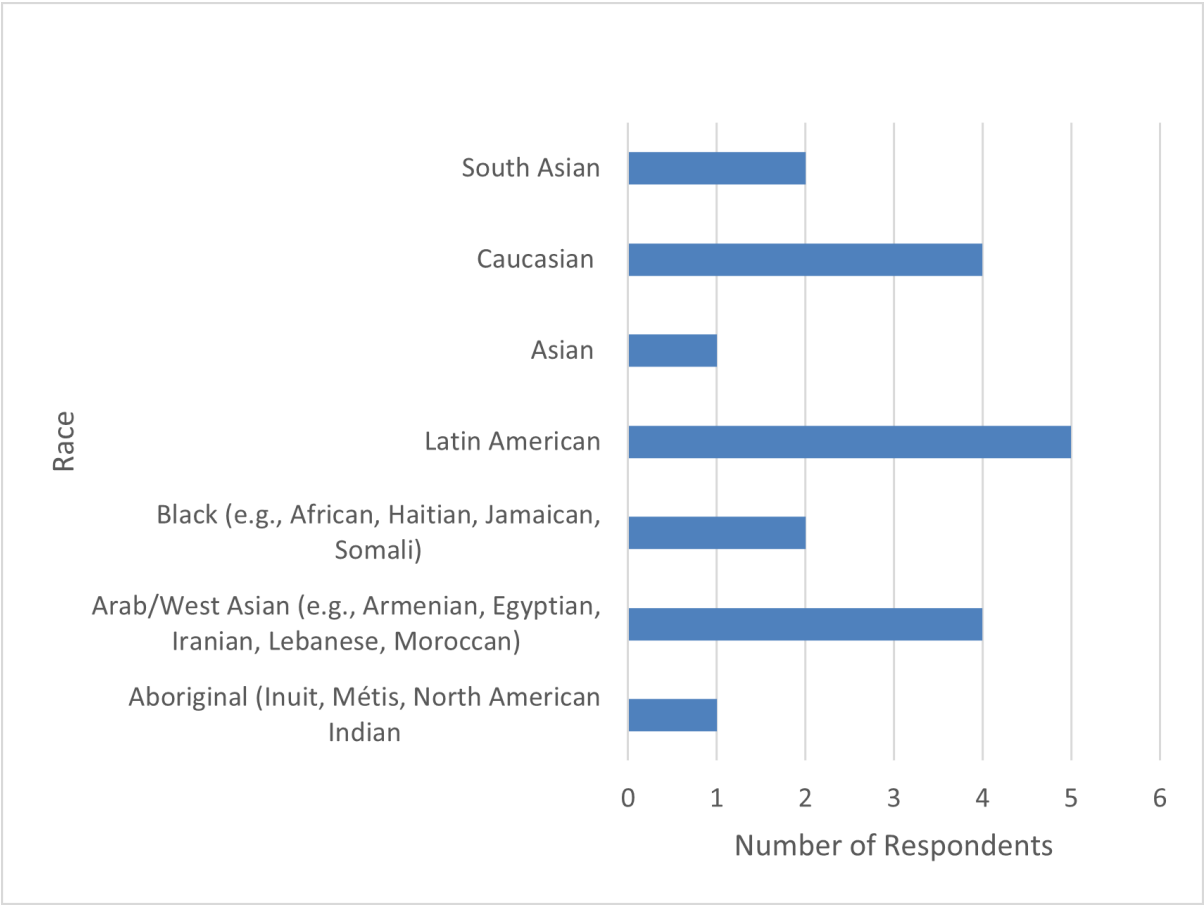


Figure 2: Age Range

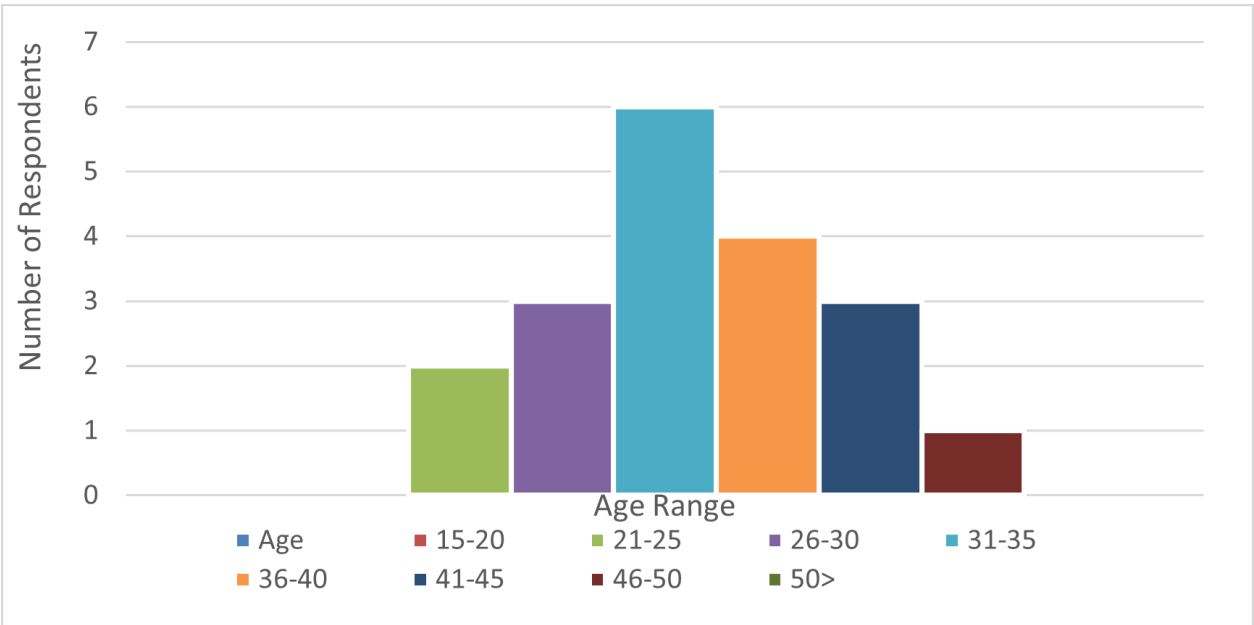


Figure 3: Number of Children

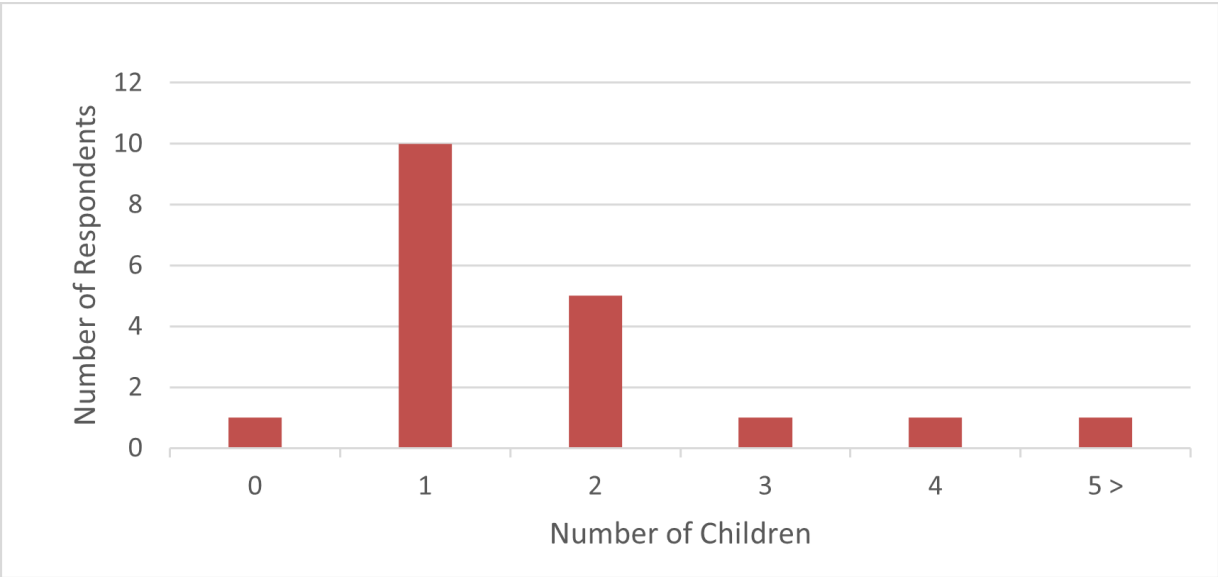


Figure 4: Source of Income

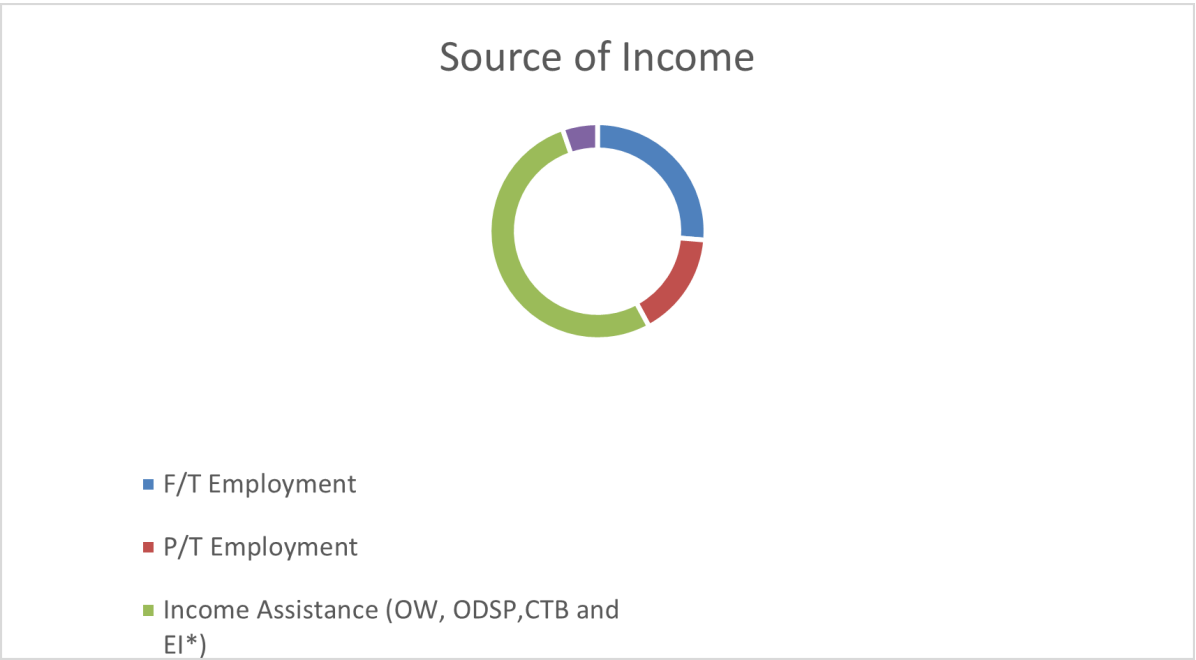


Figure 5: Annual Income

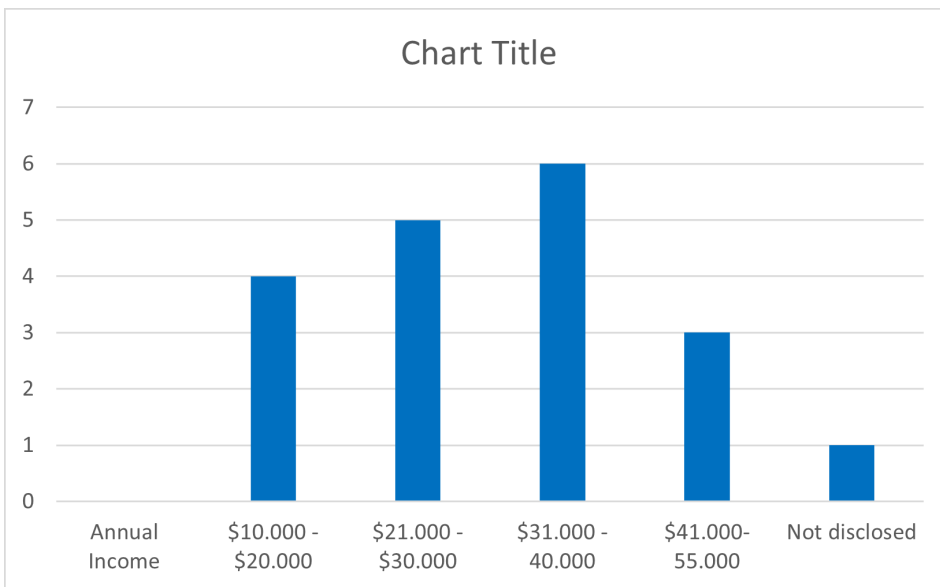
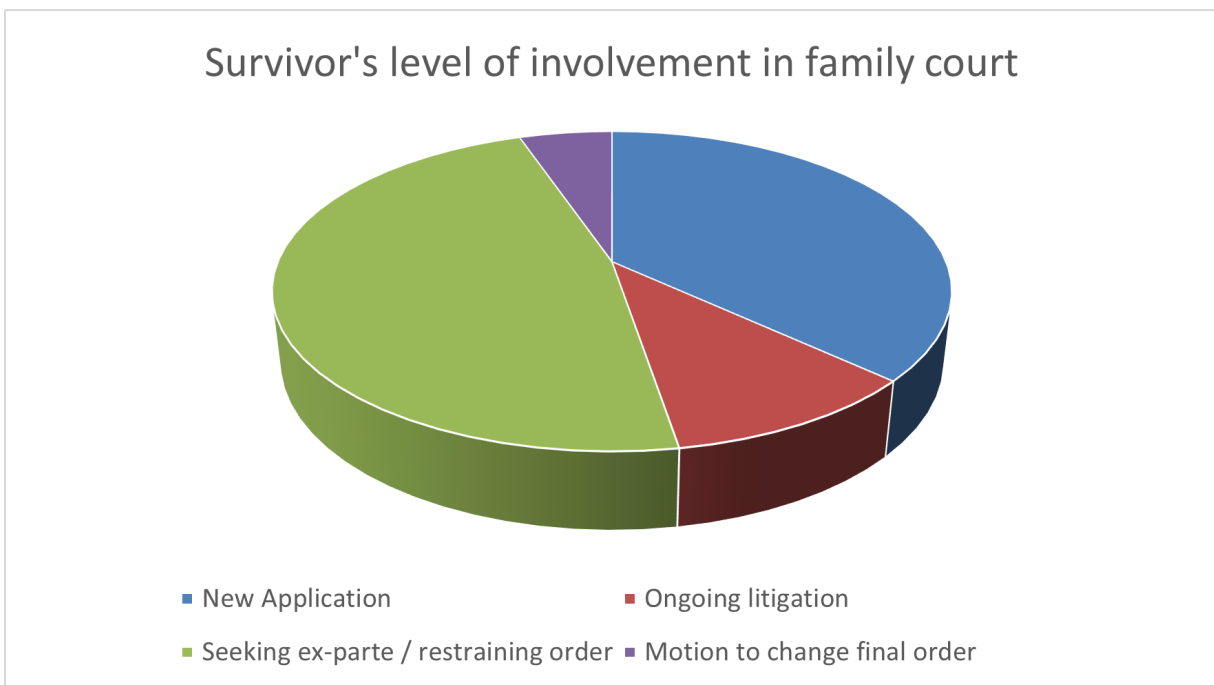


Figure 6: Level of Involvement



# Appendix 1: Court Observation Form

The Barbra Schlifer Commemorative Clinic, with funding from The Law Foundation of Ontario, is developing a risk assessment and risk management protocols in family court. This court observation form will allow us to identify how high-risk cases are assessed by stakeholders in family court. This form is entirely confidential, and client's information should remain anonymous

Date:	
Court:	

Race

	Aboriginal (Inuit, Metic, North American Indian)
	Arab/West Asian (e.g. Armenian, Egyptian, Iranian, Lebanese, Moraccan)
	Black (e.g. African, Haitian, Jamaican, Somali)
	Latin American (Latin American)
	Asian
	Caucasian
Other:	

Age (Approximate):

Number of Children:

Monthly Income:

☐ F/T employment    ☐ P/T employment    ☐ Income Assistance    ☐ Student

Client's level of involvement in family court

☐ New application    ☐ Ongoing litigation    ☐ Seeking ex-parte/retraining order

How was the process of identification of risk/screening porcess by court staff? Please specify referral source and how risk was identified by court staff. List concerns raised and potential risks raised identified



Is there any court/protection in place/or police involvement? Please indicate if there is any history current police involvement, criminal charges, and protection orders in place.

What happened after a high-risk client was identified? Please describe what happened after the high-risk client was identified - decision-making processes such as ex-parte motions, safety-planning, referrals provided etc.

Judge/court decisions: Please describe any decisions made by court staff and/or court orders

Additional notes or comments:



# Needs Assessment Report

This document focuses on individual perspectives, and findings will inform the creation of a risk assessment tool that will reflect on feedback and experiences from service providers and recipients of services in family court.

## Contents

- 1 Needs Assessment Purpose
- 2 Data collection
- 3 Analysis
  - 3.1 Family Court Stakeholders findings summary
  - 3.2 Survivor's interviews summary
- 4 Appendices

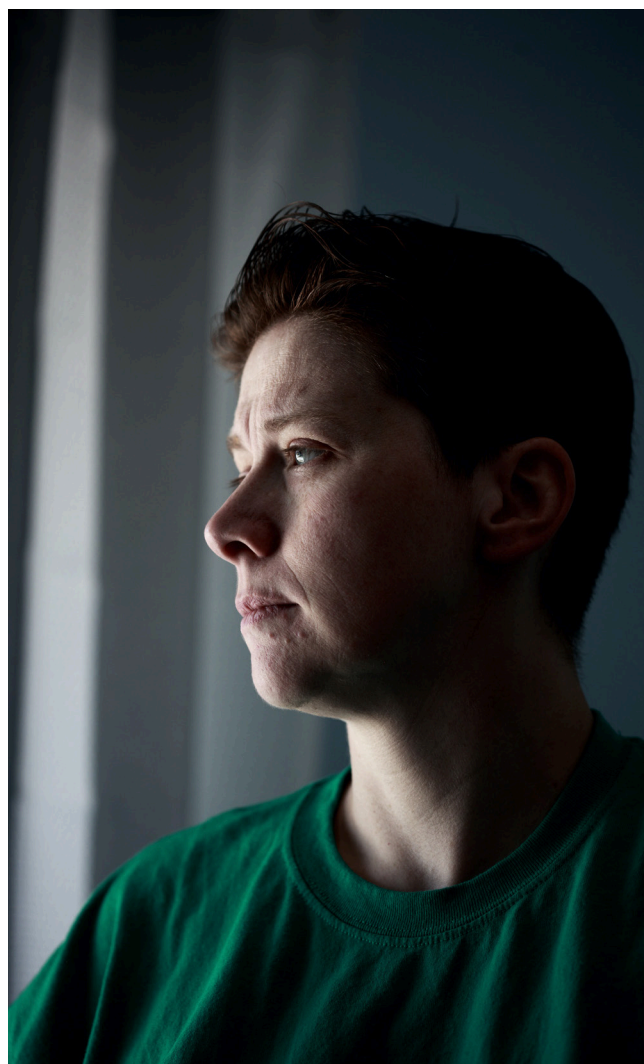
## 1 Needs Assessment Purpose

The needs assessment outlined in this report has been drawn from two different sources and findings and is divided into two main categories; family court stakeholder interview consultations and interviews with survivors of violence who received services from the family court.

The objective of the needs assessment with court stakeholders was to identify current practices, protocols and potential use of tools when assessing intimate partner violence cases and potential high-risk situations. In addition, court stakeholders had an opportunity to share their perspectives and suggestions in terms of the development of the risk assessment tool in family court.

Moreover, the needs assessment with survivors aimed to document their perspectives and experiences with service provision and outcomes in family court. Survivors shared their experiences and provided inputs on service delivery strengths and challenges.

This document focuses on individual perspectives, and findings will inform the creation of a risk assessment tool that will reflect on feedback and experiences from service providers and recipients of services in family court.



## 2 Data Collection

A questionnaire with a list of open-ended questions was designed to facilitate data collection. The project coordinator conducted individual face-to-face interviews with family court stakeholders and survivors of violence. Participants signed a confidentiality agreement, and personal information will remain anonymous. The questionnaires and confidentiality agreements are included in the appendix session as Appendix 1, 2, 3 and 4.

Stakeholders' interviews were conducted in court with main court stakeholders such as duty counsel supervisors, duty counsel, advice lawyers, mediators, Information referral coordinators, and family court support workers.

The Clinic created a flyer, in English and French, that invited survivors of violence who had contact with the family court system to participate in the project interviews. The flyers were posted in the family courts and project partners' agencies for a random selection of participants. A copy of the flyers is included in the appendix session as Appendix 5 and 6.

### 3 Analysis

As indicated above, two main categories have been created to facilitate the interpretation of findings. The first category gathers findings from family court stakeholder interviews, and subcategories were created based on questions asked and themes explored during interviews.

The second category gathers findings based on interviews with survivors of violence who had contact with family court. It includes a summary of participant's responses and some quotes that aim to capture survivors' perspectives and personal experiences with the family court system.

#### 3.1 Family Court Stakeholders findings summary

Thirty-eight family court stakeholders participated in an in-person individual interview. Participant positions ranged from duty counsel manager, full-time duty counsel, per diem duty counsel and advice lawyers, information referral coordinators, family court support workers, and mediators.

##### Education background

Most participants hold a Bachelor of Laws, followed by Bachelor of Arts, Teaching degree, Master's in Socio-legal Studies, Bachelor's in Criminology and Sociology, Bachelor's in Social Work, Master's in Social Work, Accredited Mediator.

##### Intimate partner violence (IPV) and risk assessment previous training

All respondents employed by Legal Aid Ontario (LAO), either full time or as per diem, indicated that they had IPV training through LAO at least one time, and two participants stated that they had training on risk assessment tools. A few participants indicated that they were not sure if the LAO IPV training covered risk assessment. Mediators and family court support workers stated that they had intensive training on IPV,

most mediators on MASIC risk assessment tool, and two family court support workers identified training on B-Safer and ODARA risk assessment tools.

##### Frequency of IPV cases in family court

Almost all respondents indicated that they see IPV cases in family court every day, other participants responded very often, often, 80% of the cases, 70 percent of the cases, and almost every day.



### Assessment of IPV and potential high-risk cases

All participants indicated that they identify IPV and potential high-risk cases by client interviews. The majority of respondents addressed the need to investigate through client interview safety concerns, relationship and IPV incidents history, presence of children in the home and safety concerns, police involvement, protection orders, Children's Aid Society involvement, threats to harm client or children, threats to kidnap children. Six participants included in their responses other forms of abuse that need to be investigated, such as financial control, stalking, and coercive control. One respondent addressed the need to explore the escalation of behavior in intensity and frequency. Two respondents pointed out that some survivors tend to underestimate the level of danger in their situation and stressed the need to conduct an in-depth assessment of risk even in cases that survivors do not express extreme concerns.

One participant, who self-identified as an expert in IPV cases, mentioned other issues to consider when assessing IPV and high-risk situations such as criminal history, mental health issues, substance abuse issues, past history of violence against people and pet abuse, culture/ religion backgrounds (family interconnection), clients who have limited capacity issues, history of separations, history of staying in a shelter, power imbalances, issues where the person comes from a background with patriarchy in place, newcomers to Canada, situations where people are in isolation, language issues, and lack of education, client's body language, communications with the other party (email and social media) surveillance/ monitoring issues (cameras, GPS devices, no access to phone or emails), video in the house, presto card tracking or another tracking device, threats of child abduction, country of origin, women's rights in the home country, any steps taken to abduct the children – access to passports or attempts to issue new passports, family ties in other jurisdictions, connections to Ontario (flight risk criteria). This lawyer stated that these issues should not be seen as a generalization; therefore, each situation must be analyzed separately.

### Use of risk assessment tool

The majority of respondents indicated that they do not use a risk assessment tool to assess risk, and they conduct the assessment based on their own experience and judgment. One duty counsel indicated that he does not feel comfortable making a judgment of a potential high-risk case and stressed the need for guidelines or a tool to assist. Few respondents stated that they use a list of questions or a checklist to assess risk, including information referral coordinators from Peel region and family court support workers. Mediators from Peel region use a domestic violence screening and risk assessment tool developed by their Executive Director. Mediators from other jurisdictions indicated that they use the MASIC tool, and one lawyer who also conducts mediation sessions stated that MASIC is too long and in-depth for a 2-hour mediation session/ intake.

Some family court support workers indicated that they use a list of questions to identify risk and others use the B-Safer risk assessment tool.

### Steps taken after the identification of an IPV high-risk case

Most duty counsel and advice lawyers in Toronto stated that they refer survivors to the family court support program for safety planning, support, and community referrals. Few duty counsel lawyers from Peel indicated that they would refer to community-based agencies such as Interim Place or Indus Community Services. The majority of respondents from all jurisdictions indicated that they would refer survivors to the LAO certificate program if they meet qualification criteria.



Few lawyers stated that they would assist with drafting court documents for an ex-parte emergency motion. Information referral coordinators indicated that they fill out a form (red and pink form, depending on the jurisdiction) and refer survivors to duty counsel for an assessment of potential emergency motion. Information referral coordinators have training on safety planning, and, in some cases, they assist survivors with safety planning strategies.

#### Assessment of a potential ex-parte motion

Information referral coordinators indicated that they conduct their assessment based on the questions on the pink or red forms for potential ex-parte motion requests. After filling out these forms, they refer survivors to duty counsel lawyers for an assessment based on family law test requirements.

Most duty counsel stated that they do not use a list of questions or guidelines to assess an ex-parte motion request and they base their assessment on the imminent risk of removal of a child from a jurisdiction or imminent danger to the child or party requesting the motion. Three duty counsel lawyers mentioned that there is a list of questions and guidelines to assess ex-parte motions requests available for duty counsel consultation.

#### Risk Assessment tool design: feedback and suggestions of themes to explore

All participants made suggestions of themes to be included in the risk assessment tool. One respondent raised the issue of consent; survivors being subject to the assessment should sign a consent form before the assessment. Another recommendation was that the risk assessment tool be translated into different languages. A final suggestion was to include in the tool's manual a section that suggests the steps to be taken by a service provider when a high-risk situation is identified.

### Themes to be explored in the risk assessment tool recommendations:

- |   |   |  |
|---|---|--|
| ◇ Imminent risk of harm   | (emotional, psychological, financial, spiritual, sexual and physical) | ◇ Situations where people are in isolation               |
| ◇ Social media use  |   | ◇ Perpetrator criminal history/charges                   |
| ◇ Imminent risk of child abduction                              | ◇ Injuries and hospitalization  | ◇ Language barriers                                      |
| ◇ Perpetrator history of violence against other people and pets | ◇ Parties living in the same house (recent separation?)               | ◇ Substance abuse  |
| ◇ Safety concerns   | ◇ Perpetrator breach of court orders                                  | ◇ History of survivor staying in a shelter in the past   |
| ◇ Police involvement  | ◇ Access to weapons   | ◇ Access to passports or attempts to issue new passports |
| ◇ Existing criminal charges, bail conditions                    | ◇ History of not returning children from an access visit              | ◇ Power imbalances                                       |
| ◇ Children's issues – safety concerns                           | ◇ Relationship history  | ◇ Family ties in other jurisdictions                     |
| ◇ Child protection services involvement                         | ◇ Culture/religion backgrounds  | ◇ Communication with the other party                     |
| ◇ Financial control issues                                      | ◇ Recent incidents of violence  |  |
| ◇ Self-containment  | ◇ History of separation   |  |
| ◇ Choking   | ◇ Mental health concerns  |  |
| ◇ Types of abuse  | ◇ History of staying in a shelter                                     |  |
|   | ◇ Survivor's level of fear  |  |



### 3.2 Survivor Interviews Summary

Survivors were invited to speak about their experiences accessing family court services. Respondents had the opportunity to participate in a one-on-one interview at the Clinic and all participants were asked the same questions. A total of 13 survivors contacted the project coordinator and demonstrated interest in participating. Out of the 13, five canceled or did not show up for their scheduled interview time, and eight participants were able to complete the face-to-face interview. The interviews lasted from 40 minutes to 1.5 hours. Survivors' personal information will be kept confidential.

#### Services in family court

Two survivors indicated that they were recently separated when they went to family court for the first time and they requested an emergency motion due to safety concerns for themselves and their children. One survivor had previous family court orders from a different province, but she needed to file a new application due to the change of her residence from Alberta to Toronto.

#### Survivors experiences with family court stakeholders

All survivors accessed services in family court through Family Law Information Centres and indicated that they received summary legal advice from advice counsel. Overall, respondents stated that they were satisfied with services.

Two survivors indicated that they were referred to the family court support program during their first contact with family court, and another survivor had the referral after requesting a motion to change due to safety concerns. One survivor stated that,

“my experience was generally positive; I was able to speak with someone within half an hour; they assessed me quickly. I was able to return 3 or 4 more times. There were really attentive to my needs; they heard me and made time to speak with me. I did not have any money and I accessed a lot of different services. I was referred to a family court support worker and she put me in contact with Legal Aid Ontario and provided me a 2-hour consultation form and the Barbra Schlifer Clinic services.”

**Another survivor stated that,**

“my experience overall was good, and they gave me the services that I needed. There is a receptionist that she is horrible, she has a lot of attitude. People come to court because they have problems, why are you even there. She was not helpful.”

**One of the respondents indicated that she was not satisfied with the services provided. She stated that.**

//

**The first time I went to court I had no lawyer, and the information was not very good.** I ended up filling out the application by hand; at that time, I did not qualify for Legal Aid Ontario and could not pay a lawyer. I was very confused and was not giving a lot of information. I received final court orders in 2018, sole custody and access visits to the other party. Things were ok for some time. However, at the beginning of this year, I began a newer relationship with someone else, when the opposite party found out he started the abuse again. My daughter, after access visits, would say that dad said that he would come to the house, steal you and take you back to grandma. She said that dad is going to find a way to get rid of Paul (new partner), every time she would come home, she would say something like that. Dad told me to misbehave with you and not to listen, my daughter is only three years old. He started again, stalking me; I saw him around the house several times. He was still controlling and broke into my house.

In June 2019, I decided to see a private social worker and she recommended me to file a motion to change and go to the police and speak to family court duty counsel again. The social worker stated that she was a domestic violence expert and she indicated that she felt that I was in danger. She indicated that there is a point system where determines if you are at risk, like risk factors and my situation has a lot of then, and after 2.5 years of separation OP was still behaving that way. We contacted the police, which I gave a statement in the evening and the following Monday I went to Sheppard.

The duty counsel was helpful and indicated that she would give me a red form and a restraining order. She started the process and paperwork, and I was meant to sit with the family court support worker from the Barbra Schlifer Clinic and another duty counsel. The other duty counsel person would not let me tell my history, and she would not let me finish what I am saying and assuming what I

was going to say finishing my sentences. I stopped her and asked could you let me finish to say what I am saying, but she got offended and took the red form out of the table, and she said to me: “you do not need this – I am the one who decides who get this and you do not need it. She was rude at the court support worker too. I was not screaming or yelling and swearing. She said you cannot have this, and she told the court support worker to give me some resources and I would be fine. I was very upset and told the lady when you see my face in CP24 because I got murder, I hope you feel good about yourself. I ended up going back to the private social worker, and she suggested that me to call Barbra Schlifer Clinic. I received a call from the family court support worker, and I was very thankful. She gave me a certificate (2 hours) to see a lawyer. I connected with a female lawyer, and she suggested me to file a motion to change. I paid her to draft the paperwork for the motion to change. //

## Family court litigation process: representation and access to services

One survivor indicated that she filled out the documents by herself and did not qualify for Legal Aid Ontario certificate program but, at the same time, could not afford legal fees. She stated that the outcomes might have been different if she had representation. This survivor, after receiving final orders, had to file a motion to change due to safety concerns. She mentioned that after a few not positive experiences with duty counsel in family court, her last interaction with a different duty counsel was very helpful. Duty counsel was very attentive, provided legal advice and a referral to Legal Aid Ontario and the family court support program.

**Another survivor stated that,**

//

**I did not file an application, as I had no access to duty counsel at 393 University.** I went to 311 Jarvis, I got help from legal students there, I was able to speak to duty counsel there, but they were more for people who had court that day. I got information that I can represent myself so as not to spend fees on a lawyer or hire a lawyer for unbundled services. I am self-representing at the moment.

This year the court system experienced a lot more cutbacks/severe cutbacks from the government. I was able to speak to duty counsel [only] once, they referred me to the Barbra Schlifer Clinic, for 2 hours to free legal advice, and a list of lawyers. I went again a couple of months later. For safety concerns, they immediately referred me to the Barbra Schlifer Clinic. They [courts] were saturated, too many people trying to access services. Not many services anymore. They offered information on where to get forms, but no-one to guide me, the receptionist at court had limited information. Now the courts have minimum services. Everyone is devastated by this process, but lawyers do not care about this. Legal aid is now limited. I think it's better to use the new lawyers coming from school as a resource that has online access, have websites, questionnaires, and don't charge money.

My husband has an expensive lawyer, and he has not provided his financial statements even after a year. He's spent money on the legal process, which would be needed for my daughter and me. I can't afford this waiting period [his lack of cooperation]. I think the Barbra Schlifer Clinic does a good job to help stop the violence, protect the woman or at least document it. But we need help with the legal part, it is important to have access to lawyers, to your rights and obligations, and have an understanding of the law. I'm a minority group, even if I can read and write in English, but we are experiencing the cuts. I am an educated woman but still in this situation having access to legal advice is crucial to get out of it. There is a lot of fear about the court: of not doing things right, big fear of going to court, that the court is bureaucratic, fear of documents, that it is long and expensive. So how much money I need to avoid going to court and get an agreement with my ex-partner for my protection? I see that lawyers can extend the negotiation period with possibly not even ending in an agreement. I found that I can just start a court process by myself and use the recourses in the court instead (duty counsel). It is a myth; you cannot do this process yourself. //

**The third respondent indicated that she has a lawyer through Legal Aid Ontario and a family court support worker. She noted that her lawyer did not represent her child's best interests and had requested LAO a change of solicitor.**

## Safety concerns and current agreement and/or orders

Survivors were asked if current orders or agreements have addressed their and/or child's safety concerns.

### One survivor indicated that,

"after the recent LAO cuts, I felt that the duty counsel seemed to focus on child issues versus security issues...as they triage they (duty counsel) see if there is a court date, or have children versus specifically safety issues. They did not really address safety issues as they focused on the legal forms due to the shortness of time, they gave me.

At this point, there are no orders, just conversations with the opposing party. I feel empowered to speak with the opposing party. He has the power and an expensive lawyer, but I felt empowered that I can file a court order if he does not pay it voluntarily, or through mediation as he does not want to go to court. I will feel more confident and safer if I start drafting my court documentation versus just informal conversations. It has been useful to go through the process. I learn something every time I go to family court, and they genuinely try to help. Their help made me empowered, to stand on my rights when talking to my husband. I share this with other women too, as I have many friends in the same situation, it is very common. That information is powerful. Initially, I felt ashamed to talk to others. Even informal information has an important impact on my safety. I was encouraged to just call the police. Barbra Schlifer Clinic worker explained the process to phone, encouraged to test the system to see if it works. They removed my husband from the premises without any charges. They also gave me referral services. I started doing it this year when my husband was starting to become violent again. I got this information from the family court support services."

Another survivor indicated that she has ongoing litigation, and the opposite party is living overseas and is attending court proceedings by phone conference. She stated she does not have safety concerns at the moment, but the opposing party keeps the abuse through the court system.

### She further stated that,

"I spent two years in family court in Alberta and now he is doing the same thing here. What he is doing is perjury and I cannot spend my life defending from his lies. I am distraught and angry to speak in court. Lawyers cannot understand narcissist personality – people in court need to be trained about his type of character. These people are vicious and will fight to the end. He is taking everything out of me, and my health is suffering. I had an incompetent lawyer, and now LAO is refusing to give me another one. What else am I supposed to do?"

Another survivor also stated that her litigation is still ongoing.

### She stated that,

"the first time in court, I was self-represented and paid for a process server. I filled my family court application in January 2018, and the first case conference happened only in August 2018, and we had an agreement. I included everything in my application including the charges and stalking. Every way I turned I did not have help. Nobody recommended me a restraining order; the judge asked us to work on an agreement. I was granted sole custody and OP access visits every other weekend and one night during the week – as a final basis. Then, fall and winter were ok, things were fine, I had to do a lot of the exchanges, which was very uncomfortable. He was very aggressive. Even though I said that I was concerned about my safety, nobody took that into consideration. At the beginning of this year, I began a newer relationship with someone else, when he found out he started again. Our relationship ended in



2017 and he was charged with assault and criminal harassment. He has been stalking me continuously, even nowadays. In December 2017, I had to go to the police. He was following my partner and me and harassing us. He ended up assaulting my new partner, and I reported everything to the police. He was arrested and charged with criminal harassment and assault. I still have concerns about him, concerns for my safety and my child."

### Family court responses to IPV and its impacts on children

Survivors were asked if they felt that the family court acknowledged their experiences with violence and its impacts on the parties, especially their children.

One respondent indicated that she felt that the courts are listening, and they are striving to balance the power imbalance if someone is vulnerable. However, she mentioned the impact of LAO cuts on service delivery and high numbers of domestic violence cases and limited resources to them.

**She further stated,**

"the court system is not as fast or efficient, as it was 2012."

Another respondent indicated that the litigation in the family court had impacted her child a lot and her time and money. She stated that she is not able to work and have to focus and spend time and energy responding to opposite party applications.

The third respondent indicated that she felt that the court did not acknowledge her safety concerns and the impact of intimate partner violence on her and her child.

**She also stated that,**

"No one wanted to help, people would be referring me to others all the time, talk to someone, call here and call there. I just wonder when people notice this situation, only when someone dies? Why not deal with the situation before someone dies?"

### Suggestions and recommendations

All survivors suggested more LAO funding and services for survivors of intimate partner violence. One survivor included other topics such as therapy and group sessions, having a community of women or the exchange and sharing ideas for support/solidarity. She also noted the need for more awareness and training about ongoing safety issues as violence does not end with separation especially when there are children involved, and to have ongoing education of domestic abuse for survivors. Another survivor suggested childcare volunteers for small children, making courts child-friendly for women, provision of safe waiting space, more students helping with the forms and more family court support workers. A different suggestion was the need for more training on the impact of trauma on survivors and children and how abusers can use the system to continue his abuse towards survivors. A final suggestion was more follow-up from the Victim Witness Assistance program worker.



# Appendices

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## Appendix 1: Court Stakeholders questions

### Project Enhanced Safety: Risk Assessment Tool in Family Court Court Stakeholder Consultation questions

1. Please describe your role and education/training background.
2. Have you had any formal training related to IPV or risk assessment? If so, what?
3. How often do you see intimate partner violence (IPV) cases in family court?
4. How do you identify cases of intimate partner violence?
5. How do you identify a potential high-risk intimate partner violence case? Cases where either a survivor of violence or her child/children have safety concerns and/or are in a situation of imminent danger.
6. What do you do after you identify a potential high-risk case? For instance, do you notify external resources such as police, criminal court, child protection services, court support workers, etc.?
7. Do you use any specific tool to identify a high-risk case? If yes, which one? If no, skip question 9.
8. Does the risk assessment tool provide any instruction or the next steps after the assessment is complete? If so, are you able to generally follow these steps? If not, why not?
9. Do you have any guide or list of questions when assessing a potential ex-parte motion? If so, would you be willing to share it?
10. What information do you consider relevant to include in a risk assessment tool designed for survivors of intimate partner violence who are involved in family court proceedings? Why?
11. Would you like to have formal training related to IPV and/or risk assessment?



## Appendix 2: Survivors Interview Questions

### Project Enhanced Safety: Risk Assessment Tool in Family Court Survivor's interview questions

1. Why did you seek services from family court?
  - » Were you looking for help with safety?
  - » Were you seeking orders related to your kids?
  - » Did you have a lawyer?
  - » Had you already left your partner?
  - » Other
1. Who did you see at family court?
  - » Clerk
  - » FLIC
  - » Mediator
  - » Duty counsel
  - » FCSW
  - » Other
1. How was your first experience when describing your situation to this person?
  - » Generally positive?
  - » Generally negative?
  - » Reasons:
    - felt heard/did not feel heard
    - was/was not believed
    - got/did not get useful information, etc.
4. Did you express concerns for your safety or safety of your children? If so, what did court staff say and do?
5. Did you receive any referrals from court staff? (Legal or non-legal services such as Legal Aid Ontario, Legal Clinics, Counselling services, Court Support Workers, etc)
6. Did you file an application in family court?
  - 6.1 if yes: Did you have any legal assistance during the proceedings? For instance:  
lawyer representation, court-drafting assistance, unbundled assistance, Duty Counsel representation, summary legal advice?
  - 6.2 If No: why not?
  - 6.3 Have you reached an agreement with your former spouse?
7. What were the outcomes of your court application? Do you have a final or interim family court order?
8. Do you think that the current orders or agreement have addressed your safety concerns?
9. Do you have a custody and access order or agreement in place? If yes, do you think it is working well for all the parties involved? (Parents and child/ren, and potential third-party facilitators).
10. Do you think your experience with violence and its impacts on you and your children were acknowledged and validated in family court?

11. What would you suggest to make it better for survivors to navigate through family court?
- More services
  - Better understanding of violence
  - More lawyers
  - More LAO funding
  - Trauma-informed approach
12. What would you suggest to court stakeholders that they should consider when dealing with survivors of violence?
- Impact of trauma on survivors
  - Ongoing safety issues (i.e. violence does not end with separation)
  - Taking more time with survivors
  - Providing child care
  - Providing safe waiting space
  - Providing access to free photocopying
  - Providing formal escorts to and from courthouse and courtroom



## Appendix 3: Court Stakeholders Consent Form

### **Consent for Participation in Court Consultation Data Collection Project Enhanced Safety: Risk Assessment Tool in Family Court**

The Barbra Schlifer Commemorative Clinic with funding from The Law Foundation of Ontario is developing a risk assessment tool that takes into account the complex lived realities of intimate partner violence survivors who are in contact with the family legal system. The Clinic is currently consulting with family court stakeholders about their experiences and responses when it comes to the assessment and delivery of services to survivors of intimate partner violence with safety concerns in family court. We would greatly appreciate hearing about your experience in court when dealing with survivors of violence and also contributions and suggestions that can inform the creation of the risk assessment tool. The Clinic will create a number for each interviewee in order to keep your name and identity anonymous.

I, \_\_\_\_\_ agree to participate in a research project led by the Barbra Schlifer Commemorative Clinic. The purpose of this document is to specify the terms of my participation in the project through a needs assessment consultation of my experiences when assessing and delivering services to survivors of intimate partner violence with safety concerns in family court.

1. I have been given sufficient information about this research project. The purpose of my participation as an interviewee in this project has been explained to me and is clear.
2. My participation in this project is voluntary. There is no explicit or implicit coercion or incentive whatsoever to participate. I understand that I can decline to participate in this research or any part of it.
3. I have been given the explicit guarantees that my identity and participation in this project will be kept anonymous.
4. I have read and understand the points and statements of this form. I have had all my questions answered to my satisfaction, and I voluntarily agree to participate in this study.
5. I have been given a copy of this consent form co-signed by the interviewer.

\_\_\_\_\_  
Participant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Interviewer's Signature

\_\_\_\_\_  
Date

For further information, please contact: Patricia Coelho – Project Coordinator  
p.coelho@schliferclinic.com

## Appendix 4: Survivor Interview Consent Form

### Consent for Participation in research interview Project: Risk Assessment in Family Court

The Barbra Schlifer Commemorative Clinic, with funding from The Law Foundation of Ontario, is developing a risk assessment tool designed to address access to justice issues faced by survivors of gender-based violence (GBV) in the family legal system. The Clinic is interviewing survivors of violence who were in contact with family court to hear about their experiences with court responses and services available to survivors of violence with safety concerns. We would greatly appreciate hearing about your experience with the family court system will use this information to create a report for the project (in which we will keep your name and identity anonymous).

I, \_\_\_\_\_ agree to participate in a research project led by the Barbra Schlifer Commemorative Clinic. The purpose of this document is to specify the terms of my participation in the project through being interviewed.

1. I have been given sufficient information about this research project. The purpose of my participation as an interviewee in this project has been explained to me and is clear.
2. My participation in this project is voluntary. There is no explicit or implicit coercion whatsoever to participate. I understand that I can refuse to participate in this research.
3. I have been given the explicit guarantees that my identity and participation in this project will be kept anonymous.
4. I have read and understood the points and statements of this form. I have had all my questions answered to my satisfaction, and I voluntarily agree to participate in this study.
5. I have been given a copy of this consent form co-signed by the interviewer.

\_\_\_\_\_  
Participant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Interviewer's Signature

\_\_\_\_\_  
Date

For further information, please contact: Patricia Coelho – Project Coordinator  
p.coelho@schliferclinic.com

## Appendix 5: Survivor Interview Flyer – English



### **ARE YOU A SURVIVOR OF DOMESTIC VIOLENCE WHO IS IN CONTACT WITH THE FAMILY COURT?**

#### **Project enhanced Safety: Risk Assessment Tool in Family Courts**

The Barbra Schlifer Clinic is looking for female identifying survivors of violence to help with the design of a risk assessment tool in family court.

Food vouchers, child-minding, and travel support is available for the completion of a face-to-face interview.

If you are interested to learn more, please contact Patricia Coelho, Project Coordinator, at 416-323-9149 x 279 or by email at [p.coelho@schliferclinic.com](mailto:p.coelho@schliferclinic.com)



**ÊTES-VOUS UNE SURVIVANTE DE VIOLENCE FAMILIALE QUI EST  
EN CONTACT AVEC LE TRIBUNAL DE LA FAMILLE?**

**Projet Sécurité renforcée : Outil d'évaluation des risques  
dans les tribunaux de la famille**

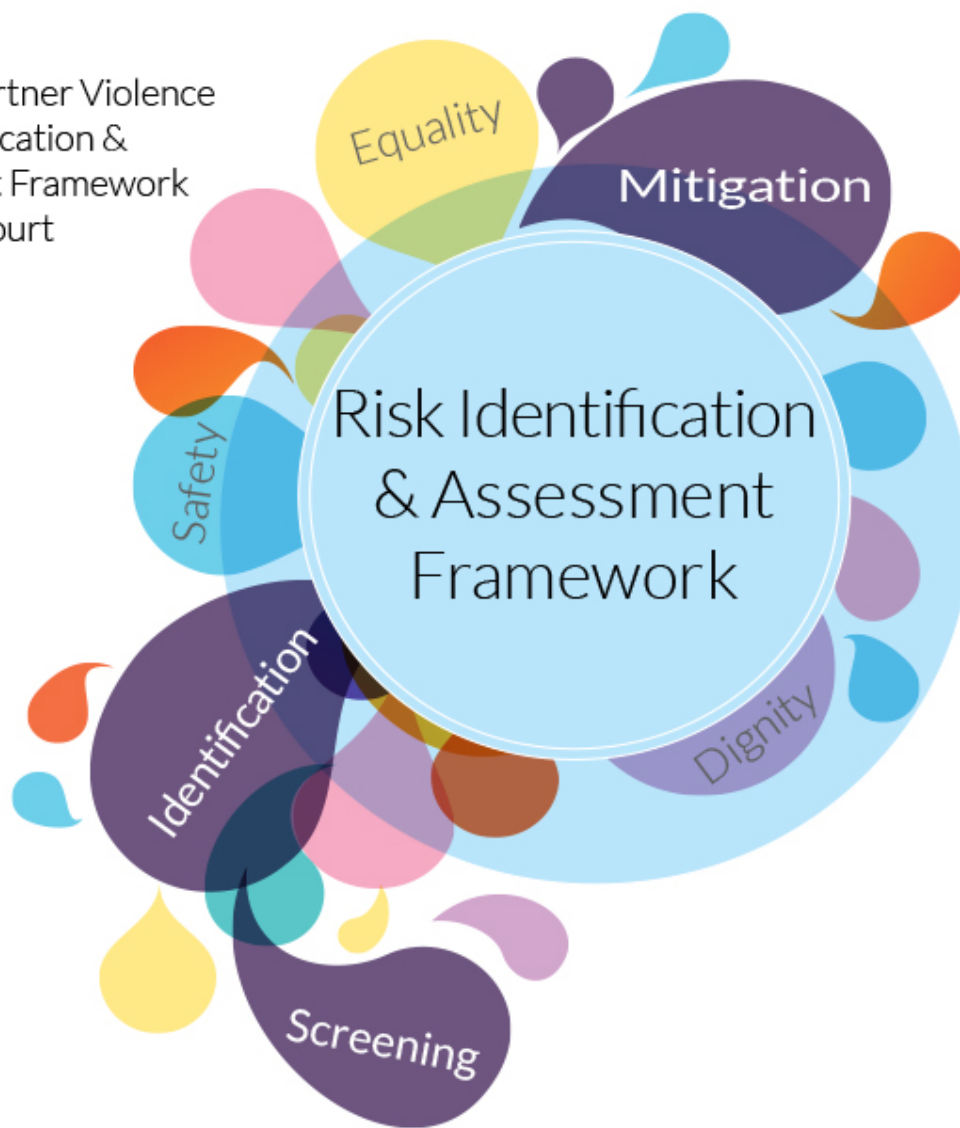
La clinique Barbra Schlifer est à la recherche de survivantes de violence pour l'aider à concevoir un outil d'évaluation des risques au tribunal de la famille.

Des bons alimentaires, des services de garde d'enfants et une aide au transport sont offerts pour la réalisation d'un entretien en personne.

Si vous souhaitez en savoir plus, veuillez communiquer avec  
Patricia Coelho, coordonnatrice de projet, par téléphone  
au 416 323-9149, poste 279, ou par courriel à [p.coelho@schliferclinic.com](mailto:p.coelho@schliferclinic.com)



Intimate Partner Violence  
Risk Identification &  
Assessment Framework  
in Family Court



**Barbra Schlifer**   
Commemorative Clinic

 **The Law  
Foundation  
of Ontario**

 **United Way  
Greater Toronto**

## Intimate Partner Violence Risk Identification and Assessment Tool User Guide

September 2020





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# 1 Acknowledgement

The Intimate Partner Violence Risk Identification Assessment (IPV RIA) tool and user guide is part of the project Enhanced Safety – Risk Assessment Tool in Family Courts Project. Funding for the project was provided by the Law Foundation of Ontario.

The Barbra Schlifer Commemorative Clinic is grateful for the valued collaboration of all family court stakeholders who provided their expert advice on their experiences providing services to survivors of violence in family court. A special thank you to the survivors of violence who shared their experiences in family court and their contributions toward the project.

## **Project Enhanced Safety in Family Courts**

Barbra Schlifer Commemorative Clinic

Executive Director: Deepa Mattoo

Project Coordinator: Patricia Coelho

Project Partners: Luke's Place Resource for Women and Indus Community Services

Project Evaluator: Salina Abji

Project Consultant: Pamela Cross

## **IPV RIA User Guide**

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## **IPV RIA Tool**

The IPV RIA tool was made possible by the valuable contributions of a great number of expert partners and stakeholders. We would especially like to thank the family court stakeholders Lauren Calderwood, Ishbel Ogilvie, Antoinette Clark; project partners experts from the Center of Research and Education of Violence Against Women Barb MacQuarrie, Margaret Macpherson, Peter Jaffe; project consultant Pam Cross and Professor Janet Mosher from Osgood Hall Law School, York University.

We also want to acknowledge staff, volunteers, and students of the Clinic who have worked on the project in various capacities. A special thank you to the survivors of intimate partner violence who shared their family court experiences and their contributions toward the project.

## **Disclaimer**

The content of the IPV RIA user guide was compiled to the best of our knowledge and was created without consulting directly the authors, editors, and/or creators of the works cited. You must not rely on the information in this document as an alternative to legal advice.

## 2 Project Background

The Barbra Schlifer Commemorative Clinic (“The Clinic”) received funding from the Law Foundation of Ontario for a two-year project called Enhanced Safety: Risk Assessment Tool in Family Courts. The main goal of the project was to create a risk assessment tool to assist survivors of gender-based violence who are involved in family court proceedings. The risk assessment tool was to consider the complex lived realities of survivors and their needs in the family court, as well as current understanding of gender-based violence (GBV). Hence, the present risk assessment tool takes into consideration physical, emotional, mental, social/cultural, racial, financial, legal, and spiritual abuse and the multiple sources of oppression and systemic barriers that women are often subject to.

The creation of this tool involved extensive consultations with court stakeholders and survivors of violence. The Clinic took counsel from the Centre of Research and Education of Violence Against Women and Children (CREVAWC) from Western University and worked in partnership with agencies that deliver the Family Court Support Worker Program in Durham Region, Luke’s Place and Peel Region, Indus Community Services. The Family Court Support Worker Program is a provincial program funded by the Ministry of The Attorney General. Family court support workers provide direct support to victims of domestic violence who are involved in the family court process.

The overall project goals were to:

- Consult with family legal system actors including lawyers, judges, mediators, clerks, family court support workers and survivors;
- Observe court operations in Toronto, Brampton, and Durham and conduct a needs assessment for these courts to identify knowledge gaps;
- Create a free online risk assessment tool and user guide that addresses gaps identified in the needs assessment;
- Develop risk management protocols in high-risk cases;
- Facilitate collaboration across family courts and other systems when responding to high-risk cases;
- Develop training for family legal system actors to be delivered in person; and
- Create and make available a free online multimedia training module in English and French.



#### Summary of the main stages of the project:

- Compilation of literature review; annotated bibliography format;
- Research of risk assessment tools used in Canada and overseas; creation of a database of most common tools used and any potential GBV risk assessment tool;
- Meetings and consultations with community partners, court stakeholders, legal actors in family court, and high-risk clients;
- Analysis and compilation of data from needs assessment interviews.
- Development of a risk assessment tool and user guide tailored to family courts based on needs assessment results and literature review;
- Pilot risk assessment tool internally and request input from Barbra Schlifer Clinic staff;
- Pilot risk assessment tool in Family Court and request input from court staff;
- Development in-person training to be delivered to court staff; and
- Creation of multimedia training to be permanently available online in English and French.



### 3 Intimate Partner Violence, Family Violence, and “Honour-Based” Violence

Intimate partner violence (IPV), also called domestic violence, refers to abuse and violence directed by one partner to the other in current and former intimate relationships<sup>1</sup>. The IPV risk identification and assessment tool was created to identify potentially high risk domestic violence situations in family court. While the tool primarily assesses cases of IPV, it also considers potential occurrences of violence committed by family members other than intimate partners. Family Law Practitioners (FLPs) will also consider violence arising out of forced marriage situations and so-called “honour-based” violence and killings<sup>2</sup>.

It is important to have a clear definition of the types of violence before administering this tool. Therefore, you will find below a brief definition of Intimate partner violence, family violence and honour-based violence.

Intimate Partner Violence refers to a pattern of behaviour by one partner designed to coerce, control, and dominate the other partner<sup>3</sup>. Such behaviour includes physical, psychological, sexual, emotional, financial, verbal, online, and social abuse and intimidation<sup>4</sup>. Intimate Partner Violence can occur between current and former spouses (married, common-law, or domestic partners), dating partners, and ongoing sexual partners<sup>5</sup>. While it is predominantly perpetrated by men against women, anyone can be the victim or perpetrator of IPV<sup>6</sup>. Intimate Partner Violence occurs among heterosexual, homosexual, bisexual, and transgender individuals and couples<sup>7</sup> and across all socio-economic, cultural, racial, educational, and religious backgrounds<sup>8</sup>.

#### **There are three primary categories of IPV:**

- 1) minor, isolated violence;
- 2) victim-resistance violence; and
- 3) coercive (controlling, patterned) violence<sup>9</sup>.

**Minor, isolated violence** refers to violence that is not associated with a pattern of abuse. It is non-repetitive and does not cause lingering fear or harm. This includes violence occurring only at the time of separation<sup>10</sup>.

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1 Linda C Neilson, *Responding to Domestic Violence in Family Law, Civil Protection & Child Protection Cases*, 2nd ed (E-book: CanLII, 2017) at 6, online: <https://bit.ly/3gT6ZYx>

2 The term “honor based” is used within certain cultures as an excuse for violence against women and girls based on culture norms and traditions, but the authors do not see any honour in these acts of violence. Culture in the context of honour-based violence must be examined more critically to “understand the link between culture and relations of power and domination”. The Barbra Schlifer Clinic’s position on the issue and a more detailed discussion can be found below. Also see Yakin Erturk, Report of the Special Rapporteur on Violence Against Women, its causes and consequences’ (18 May 2009) A/HRC/11/6, para 18. See Gill, A., & Brah, A. (2014). Interrogating cultural narratives about ‘honour’- based violence. *European Journal of Women’s Studies*, 21(1), 72-86.

3 Jocelyn Coupal, “Domestic Violence Interview Guide for Lawyers” (2011), online (pdf): The Continuing Legal Education Society of British Columbia; Neilson 2017, *supra* note 5 at 4.2.

4 Canada, Department of Justice, *Intimate partner violence risk assessment tools* by Melissa Northcott (Ottawa: Department of Justice, Research and Statistics Division, 2013) at 6, online (pdf): Department of Justice <[https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr12\\_8/rr12\\_8.pdf](https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr12_8/rr12_8.pdf)>.

5 Katie Bush & Kim Nash, “Joint Position Statement” (2014), online (PDF): Emergency Nurses Association <[https://www.ena.org/docs/defaultsource/resource-library/practice-resources/position-statements/joint-statements/intimatepartnerviolence.pdf?sfvrsn=4cdd3d4d\\_8](https://www.ena.org/docs/defaultsource/resource-library/practice-resources/position-statements/joint-statements/intimatepartnerviolence.pdf?sfvrsn=4cdd3d4d_8)>.

6 *Supra* note 1 at 4.2.

7 *Supra* note 1 at 4.2.

8 Elizabeth Miller, “Intimate Partner Violence” (2019) 380:9 *New England Journal of Medicine* 850-857.

9 Department of Justice: *Enhancing Safety: When Domestic Violence Cases are in Multiple Legal Systems* (Criminal, family, child protection): A Family Law, Domestic Violence Perspective, by Linda C Neilson, [www.justice.gc.ca](http://www.justice.gc.ca) (2014) at 9, Last Modified: 2014-08-18 [Neilson 2014].

10 *Ibid* at 30.



**Victim-resistance violence** refers to violence that may be used to respond to a perceived imminent threat, violence that is a response to psychological harm resulting from past domestic violence, violence to resist violence, and violence associated with attempting to escape the relationship<sup>11</sup>.

**Coercive (controlling, patterned) violence** is part of a patterned process where one intimate partner attempts to control the other through physical violence and/or non-violent intimidation tactics<sup>12</sup>. Victims may experience a magnification of earlier harm through each new incident of violence<sup>13</sup>.

**Family violence** is violence directed at one or more individuals that is perpetrated by one family member against another, such as between siblings, adolescent or adult children to their parents<sup>14</sup>, or parents-in-law to their children-in-law thus extending beyond violence between intimate partners<sup>15</sup>. Family violence can also include the exposure of children to violence<sup>16</sup>. Violence may occur a single time, or numerous times, creating a pattern of abuse or neglect<sup>17</sup>. It often includes an abuse of power by the perpetrator, using controlling and coercive tactics against the victim<sup>18</sup>. Family violence can happen in families of any culture, socioeconomic class, or religion<sup>19</sup>.

### **“Honour-based” Violence**

The following is a brief description of the concept of gender-based violence arising out of so-called “honour-based” violence and killings.

So-called **“Honour-based”** violence (HBV) can be defined as acts of violence, usually murder, committed by male family members, in most cases against female family members<sup>20</sup> who are perceived to have brought dishonor upon the family<sup>21</sup>. ... Honour crimes are not specific to any religion; nor are they limited to any one region of the world<sup>22</sup>. It is believed to be morally justified, as it is aimed to protect the value system that is the source of the norms and beliefs about honour<sup>23</sup>. While perpetrators of honour-based violence are typically the victim’s male relatives or in-laws, however older women, such as mothers and mothers-in-law, can also perpetrate violence.

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11 Ibid at 31.

12 Ibid at 32.

13 Ibid at 32.

14 Victoria, Australia, Ministry for Family Violence Reform in Victoria, Family Violence: risk assessment and risk management (Melbourne: Family Violence Coordination Unit, Department for Victorian Communities, 2007) at 21.

15 Victoria, Australia, Family Safety Victoria, Family Violence Risk Assessment and Risk Management: Policy and Practice, Consultation Draft – June 2018 (Melbourne: Family Safety Victoria, 2018) at 8.

16 Supra note 14 at 8.

17 Department of Justice, “About Family Violence” (2019), online: Department of Justice <<https://www.justice.gc.ca/eng/cj-jp/fv-vf/about-apropos.html>>.

18 Domestic Violence Victoria, “Submission to Family Safety Victoria: Family Violence Information Sharing and Risk Assessment and Risk Management Framework” (2018) at 19, online (PDF): Domestic Violence Victoria <<https://www.ntv.org.au/wp-content/uploads/2018/07/FINAL-Joint-Submission-FVIS-and-MARAM-Framework-10.7.18.pdf>>.

19 Manitoba Status of Women, “Family Violence Prevention Program” (2019), online: Manitoba <<https://www.gov.mb.ca/msw/fvpp/>>.

20 Aisha Gill, “Introduction: ‘Honour’ and ‘Honour’-Based Violence: Challenging Common Assumptions” in “Honour” killing and violence: Theory, policy, and practice, ed by Gill et al (London: Palgrave Macmillan, 2014) at 3.

21 Supra note 17.

22 Rashida Manjoo. “Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences,” 23 May. 2012, United Nations Human Rights Office of the High Commissioner for Human Rights, 12 February 2013 at 1.

23 Aisha Gill, & Avtar Brah, “Interrogating cultural narratives about ‘honour’-based violence” (2013) 21:1 European Journal of Women’s Studies 72.

### The problem with “honour” in HBV

“Honour”-based violence is not merely domestic violence occurring within ethnic groups; the invocation of “honour” creates additional harms and constraints on the victim<sup>24</sup>, and there have been many valid criticisms to the use of this term for this particular form of violence. For instance, the Canadian Council for Muslim Women is strongly opposed to the term “honour killing” particularly because no murder of a woman should be categorized by the rationale provided by the murderer, or by society itself, whether it be a so-called “honour killing” or a “crime of passion.”<sup>25</sup> A second line of critique is that calling this violence something grounded in “honour” not only makes it seem as if femicide is a highly unusual event, but also paints the picture that femicide is confined to specific populations within Canada, and specific national cultures or religions globally, even though neither of these propositions are true<sup>26</sup>. Instead, it is argued that so-called “honour killings” should be placed under the umbrellas of gender-based violence and femicide.

The Barbra Schlifer Clinic takes these concerns seriously and maintains that any reference to “honour” is in reference to relevant literature.

## 4 The Family Law System and Intimate Partner Violence

The Canadian legal system has made positive steps in recent decades to better understand IPV and recognize its harms and effects on women. In a landmark decision from the Supreme Court of Canada (“the SCC”), *R v Lavallee*, the Court denounced many myths and stereotypes surrounding IPV<sup>27</sup>. In this case, the accused was a victim of domestic violence who was charged with attempted murder and aggravated assault<sup>28</sup>. Writing for the majority, Justice Wilson highlighted some of these myths believed by judges and jurors regarding IPV, such as “(e)ither she was not as badly beaten as she claims or she would have left the man long ago,” or, “she must have stayed out of some masochistic enjoyment of it.”<sup>29</sup> In successfully applying the defence of “The Battered Woman” for the first time<sup>30</sup>, Justice Wilson affirmed the use of expert testimony in cases involving IPV in order to dispel harmful myths and promote trial fairness for abused women. However, battered woman syndrome testimony continues to be narrowly applied and fails to successfully protect all women who experience battered woman syndrome<sup>31</sup>.

Therefore, despite some progress, the Canadian Family Law system continues to operate on myths and assumptions relating to IPV that marginalize women and their children. Judicial perceptions of women who experience violence are underpinned by cultural norms and assumptions about women’s sexuality and autonomy, importing cultural biases, myths, and stereotypes into judicial decision making<sup>32</sup>. While many judges nominally recognize the “serious harm” that IPV poses to women and their children, many family court decision-makers continue to divorce or minimize the effects of IPV in making final decisions, particularly those relating to child custody<sup>33</sup>. Courts have

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24 Natasha Mulvihill, “The experience of interactional justice for victims of ‘honour’-based violence and abuse reporting to the police in England and Wales” (2018) 29:6 International Journal of Research and Policy 640.

25 Canadian Council for Muslim Women

26 Yasmin Jiwani and Homa Hoodfar, “Should We Call it ‘Honour Killing?’” 31 Jan. 2012 Montreal Gazette. 3 Feb. 2013, online: < <https://www.pressreader.com/canada/montreal-gazette/20120131/281831460623735>>.

27 *R v Lavallee*, [1990] 1 SCR 852, 1990 CanLII 95 [Lavallee].

28 Ibid at 852.

29 Ibid at 873.

30 Ibid at 878.

31 Kwon-leung Tang, “Battered Woman Syndrome Testimony in Canada: Its Development and Lingering Issues” (2003) 47:6 International Journal of Offender Therapy and Comparative Criminology 618 at 622.

32 Susan Ehrlich, “Legal Discourse and the Cultural Intelligibility of Gendered Meaning” (2007) 11:4 Journal of Sociolinguistics 452 at 455.

33 Catherine Naughton, Aisling O’Donnell & Ronnie Greenwood, “‘Ordinary decent domestic violence’: A discursive analysis of family law judges’ interviews” (2015) 26:3 Discourse & Society 349 at 359.

minimized allegations of IPV, portraying IPV as instances of inter-parental conflict, rather than as patterns of abuse<sup>34</sup>.

Through the normalization of divorce in recent decades and the rise of no-fault divorce, courts increasingly have taken a hands-off approach to family violence legal issues, prioritizing familial privacy and autonomy<sup>35</sup>. While positive in some respects, this approach risk to masking instances of IPV<sup>36</sup>. Courts often “focus on the future, not the past,” which ultimately underserves families experiencing IPV by minimizing past abuse and failing to account for the continuing effects of IPV following separation<sup>37</sup>. The failure to recognize abuse can lead to family court decisions that put women and children at a greater risk for continued, and often heightened abuse, following separation.

Many decision makers share a common misconception that IPV will abate upon separation. This misconception has been debunked by numerous studies that demonstrate that abusers may use litigation and joint-custody arrangements as a vehicle for continued abuse<sup>38</sup>. Statistics Canada data from 2007 to 2011 reveal that women’s risk of being murdered by a legally separated spouse was nearly six times higher than their risk from a legally married spouse<sup>39</sup>. A study in California found that 34% of abusers threatened to kidnap the child/children during child visitation<sup>40</sup>. The same study showed that 19% of abusers threatened to contest the custody arrangement as a means to force the victim to return to the relationship, rather than proceed with the separation<sup>41</sup>.

Correspondingly, it has been shown that, rather than turning to the family court system for protection, women victims of IPV often avoid court in order to minimize risks of violence by limiting interactions with their abuser<sup>42</sup>. Women feared advocating for their wellbeing and that of their children in court, for fear that this could cause retaliation by their abuser<sup>43</sup>. Similarly, women have also feared that highlighting partners’ abuse would backfire and cause courts to view them as hostile to the separation process<sup>44</sup>. The “friendly parent factor,” where courts award primary custody to the parent perceived as most likely to encourage contact, has silenced women, discouraging them from coming forward about the abuse to which they have been subjected<sup>45</sup>.

Courts have historically operated on the assumption that contact with both parents is in the best interests of the child. This is highlighted in the United Nations’ Convention on the Rights of the Child, by article 9(3) which reads, “State Parties shall respect the right of the child...to maintain

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34 Janet Johnston & Nancy Ver Steegh, “Historical Trends in Family Court Response to Intimate Partner Violence: Perspectives of Critics and Proponents of Current Practices” (2013) 51:1 Family Court Review 63 at 66.

35 Ibid at 65.

36 Ibid at 65.

37 Ibid at 66.

38 Peter Jaffee, Nancy Lemon & Samantha Poisson, *Child Custody and Domestic Violence: A Call for Safety and Accountability* (Thousand Oaks, California: Sage Publications, 2003) at 19.

39 Canada, Statistics Canada, *Family Violence in Canada: A Statistical Profile, 2011* by Maire Sinha (Ottawa: Statistics Canada, 2013) at 43, online (pdf): Statistics Canada <<https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2013001/article/11805-eng.pdf?st=1O6hh5qB>>.

40 Mary Kernic, “Children in the Crossfire: Child Custody Determinations Among Couples with a History of Intimate Partner Violence” (2005) 11:8 Violence Against Women 991 at 992.

41 Ibid at 992.

42 April Zeoli et al, “Post-Separation Abuse of Women and their Children: Boundary-Setting and Family Court Utilization Among Victimized Mothers” (2013) 28:6 Journal of Family Violence 547 at 548.

43 Ibid at 556.

44 Christine Harrison, “Implacably Hostile or Appropriately Protective? Women Managing Child Contacts in the Context of Domestic Violence” (2009) 14:4 Violence Against Women 381 at 395.

45 Supra note 34 at 64.

personal relations and direct contact with both parents on a regular basis, *except if it is contrary to the child's best interests*"<sup>46</sup>. Given that some courts have minimized IPV as "inter-parental conflict" rather than recognizing it as a pattern of abuse, there is a significant risk that this assumption will not be rebutted in cases with IPV<sup>47</sup>. The misguided characterization of IPV as isolated incidents that are unlikely to continue post-separation supports a pro-access approach to custody where both parents have a court-ordered right to continued access to children<sup>48</sup>.

Canadian courts and legislatures have attempted to address the risks posed to children through unfounded assumptions surrounding IPV and a pro-access approach through the consideration of the "best interests of the child" by incorporating the best interests of the child analysis into Federal and Provincial legislation. The SCC has held that the best interests of the child analysis is guided by the right of the child to a parent who will pursue their best interests<sup>49</sup>. This is meant to be a highly contextual, child-centric analysis, giving courts wide latitude to balance a variety of considerations<sup>50</sup>.

On June 1, 2019, Bill C-78, Act to Amend the *Divorce Act*, The Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act ("Bill C-78"), received Royal Assent. Bill C-78 includes many amendments to the *Divorce Act* as well as other statutes that are addressing the specific needs and circumstances of individuals and children fleeing family violence. The changes to the *Divorce Act* was initially scheduled for July 1, 2020, however, due to circumstances related to the COVID-19 pandemic, the coming into force date has been deferred until March 1, 2021. Therefore, as of March 1, 2021, section 2(1) of the *Divorce Act* will contain a definition of family violence rooted in the best interests of the children in any divorce proceeding<sup>51</sup>:

**family violence** means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety or for that of another person — and in the case of a child, the direct or indirect exposure to such conduct — and includes

- (a) physical abuse, including forced confinement but excluding the use of reasonable force to protect themselves or another person;
- (b) sexual abuse;
- (c) threats to kill or cause bodily harm to any person;
- (d) harassment, including stalking;
- (e) the failure to provide the necessities of life;
- (f) psychological abuse;
- (g) financial abuse;
- (h) threats to kill or harm an animal or damage property; and
- (i) the killing or harming of an animal or the damaging of property; (violence familiale)<sup>52</sup>

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46 Convention on the Rights of the Child, 20 November 1989, UNTS 1577 3 at art 9(3) (entered into force 2 September 1990).

47 Supra note 34 at 66

48 Supra note 33 at 353-354.

49 Young v Young, [1993] 4 SCR 3 at page 20, 1993 CanLII 34 [Young].

50 Ibid.

51 Canada, Department of Justice, The Divorce Act Changes Explained, (technical guide, 3 June 2020) at 18. online: Department of Justice <<https://www.justice.gc.ca/eng/fl-df/cfl-mdf/dace-clde/div50.html>>.

52 Bill C-75, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act, 1st Sess, 42nd Parl, 2019, cl 16 (assented to 21 June 2019) at s 2(1).

*The Divorce Act's* new definition of family violence refers to violent acts in and of themselves, as well as a child's exposure to those violent acts<sup>53</sup>. The definition is broad and encompasses conduct that is violent or threatening, that follows a pattern of coercive and controlling behaviour, or that causes a family member to fear for their safety or the safety of another person. The burden of proof on the party alleging such behaviours do not have to meet the criminal burden of proof—i.e., “beyond a reasonable doubt”—nor do the behaviours have to qualify as criminal offences in order to be deemed as family violence<sup>54</sup>. The *Divorce Act* will also include a non-exhaustive list of behaviours that courts can consider when rendering decisions regarding family violence.

Additionally, Bill C-78 reframes orders regarding the care and control of children. The new *Divorce Act* now refers to “parenting orders” instead of custody orders, and features concepts and words focused on relationships with the children, in order to centre the best interests of the child in a divorce proceeding<sup>55</sup>. Parenting orders dictate the parenting time and decision-making responsibilities assigned under the Act. Only spouses and certain non-spouses may apply for a parenting order, while others, such as grandparents, can apply for contact orders under section 16.5(1) of the *Divorce Act*. Parenting plans under section 16.6(1) of the *Divorce Act* are to be included in parenting and contact orders and are encouraged to promote agreement between the parties involved in a divorce proceeding<sup>56</sup>. Section 16(2) requires that the court “give primary consideration to the child's physical, emotional and psychological safety, security and wellbeing.”<sup>57</sup>

Additionally, the new section 16(3) sets out a non-exhaustive list of factors that the court should consider when making decisions regarding custody/parenting orders and access, which explicitly includes:

- (a) any family violence and its impact on, among other things,
- (b) the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child, and
- (c) the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on issues affecting the child<sup>58</sup>.

Under the new *Divorce Act*, the best interest of the child remains paramount. When determining what parenting or contact order is in the best interests of the child, courts must consider an inexhaustive list of factors provided in section 16(3).

The new approach to assessing a child's best interests notably de-emphasizes the “friendly parent” factor that directed courts to give effect to the “maximum contact” principle that stated that children should have as much contact with each spouse as was consistent with their best interests. This principle required a consideration of the willingness of the spouse for whom custody was sought to facilitate the child's contact with the other spouse<sup>59</sup>. Now, while a spouse's willingness to support the child's relationship with the other spouse is one factor that courts must take into account<sup>60</sup>, family violence must also be considered<sup>61</sup>.

However, while the inclusion of these factors increases the court's awareness of family violence,

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53 Supra note 51 at 18

54 Ibid.

55 Supra note 51 at 112.

56 Ibid at 136.

57 Supra note 52 at s 16(2).

58 Ibid at 16(3).

59 Divorce Act, RSC 1958, c 3 (2nd Supp), s 16(10).

60 Supra note 52

61 Ibid at s 16(3)(j).



the changes are still criticized for cementing the idea that it is always in the child's best interest to spend as much time as possible with both of their parents. Research has shown that, particularly in cases of family violence, the best interests of the child are not served by the presumption in favour of maximum contact, thereby requiring further changes to the test<sup>62</sup>.

Ontario's Provincial Family Law legislation also requires that courts focus on the best interests of the child when making orders for custody arrangements. Section 24 of the *Ontario Children's Law Reform Act* ("the CLRA") contains a list of factors that courts must consider when deciding custody or access issues<sup>63</sup>:

- (2) The court shall consider all the child's needs and circumstances, including:
  - (a) the love, affection, and emotional ties between the child and,
    - (i) each person, including a parent or grandparent, entitled to or claiming custody of or access to the child,
    - (ii) other members of the child's family who reside with the child, and
    - (iii) persons involved in the child's care and upbringing;
  - (b) the child's views and preferences, if they can reasonably be ascertained;
  - (c) the length of time the child has lived in a stable home environment;
  - (d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
  - (e) the plan proposed by each person applying for custody of or access to the child for the child's care and upbringing;
  - (f) the permanence and stability of the family unit with which it is proposed that the child will live;
  - (g) the ability of each person applying for custody of or access to the child to act as a parent; and
  - (h) any familial relationship between the child and each person who is a party to the application<sup>64</sup>.

Notably, under s. 24(3), a court must also consider whether a person has at any time committed violence or abuse against his or her spouse, a parent to whom the application relates, a member of the person's household, or any child. This is the only time that a person's past conduct may be considered when determining custody arrangements under the CLRA<sup>65</sup>.

The Canadian Family Law system has made several positive steps to better protect women and children from the effects of IPV, including the forthcoming amendments to the Divorce Act. However, significant work remains. Effective recognition of IPV as a pattern of abuse, rather than as isolated incidents of violence, imbued with myths and stereotypes associated with risk remains a fundamental issue in the family law system in order to give effect to the legislative safeguards for women and children.

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62Suki Beavers, Anastasia Berwald & Pamela Cross, "BILL C-78: An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act", online (pdf): Luke's Place < <https://lukesplace.ca/wp-content/uploads/2018/11/NAWL-Lukes-Place-Brief-on-C-78-final-for-submission-2.pdf> >.

63 Child Law Reform Act, RSO 1990, c C-12, s 24(2).

64 Ibid at 24(2).

65Child Law Reform Act, RSO 1990, c C-12, s 24(3).

## 5 Family court: Screening and assessment of IPV and risk

It is important that FLPs be able to distinguish between screening for and assessment of IPV in Family Court matters. While some tools have a combination of screening and assessment for risk, the purpose of the IPV RIA is to screen and identify any potential risk for future violence where a history of IPV has been identified.

The Australian Institute of Family Studies explains the difference between screening and risk assessment. Screening is required to identify the warning signs for the risk of IPV. Screening involves the identification of victims and survivors of family violence or IPV to determine whether further intervention is required. Routine screening is the process of asking questions related to IPV to all clients who access family related services<sup>66</sup>.

In contrast, risk assessment refers to the ongoing efforts to determine the degree of harm that is likely to occur as a result of past, present or future intimate partner violence<sup>67</sup>. There are three approaches to IPV risk assessment: unstructured professional judgment; actuarial decision making; and structured professional judgment.

Unstructured professional judgment, also known as unstructured clinical decision making, is the most commonly used approach to assessing IPV<sup>68</sup>. This method relies on the professional discretion of the evaluator. Results are justified by the experience and qualifications of the professionals who conduct the assessments. The method requires that professionals use their intuition to determine risk—which can allow for tailored and context-specific risk management strategies—but may also result in important gaps based on the background, training and biases of the evaluator<sup>69</sup>.

The actuarial decision-making approach was designed to use a numerical and quantifiable system whereby specific behaviours could be predicted within a particular time frame<sup>70</sup>. According to Kropp, the goal of actuarial approaches is to compare an individual to a “norm-based reference group” and to provide a precise estimate of the probability of violence within a particular time period<sup>71</sup>. Using a fixed set of factors, the actuarial approach is designed to provide a score as an indicium of risk. While, according to Kropp, actuarial decision-making tools provide the “appearance of objectivity and precision,” in practice, they only have a modest correlation with violence and are subject to statistical limitations<sup>72</sup>.

Finally, structured professional judgment combines aspects of the unstructured professional judgment and actuarial decision-making approaches. Kropp and Hart defined this approach as “a decision made without fixed and explicit rules but based at least in part on consideration of a standardized information base<sup>73</sup>.” It incorporates professional judgment as well as non-

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66 Elly Robinson & Lawrie Moloney, “Family violence: Towards a holistic approach to screening and risk assessment in family support services” (2010), online: Australian Institute of Family Studies < <https://aifs.gov.au/cfca/publications/family-violence-towards-holistic-approach-screening/export> >.

67 Centre for Research & Education on Violence against Women & Children, “Domestic Violence Risk Assessment and Management Curriculum” (1 December 2012), online (pdf): Western Education < [http://onlinetraining.learningtoendabuse.ca/sites/default/files/lessons/DVRAM%20full-text%20December%202012\\_1.pdf](http://onlinetraining.learningtoendabuse.ca/sites/default/files/lessons/DVRAM%20full-text%20December%202012_1.pdf) > at 16.

68 Randall Kropp, “Intimate Partner Violence Risk Assessment and Management” (2008) 23: 2 Violence and Victims 202 at 205.

69 Ibid.

70 Ibid at 206.

71 Ibid.

72 Ibid.

73 Randall Kropp & Stephen Hart, “The Spousal Assault Risk Assessment (SARA) Guide: Reliability and Validity in Adult Male Offenders” (2000) 24: 1 Law and Human Behaviour 101 at 103.

discretionary risk assessment tools<sup>74</sup>. While there are guidelines pertaining to information gathering, communication, and specific violence prevention methods, there are no restrictions on the weighting or final combination of risk factors<sup>75</sup>. The considerable degree of professional discretion allowed in a structured professional judgment approach might be subject to the same criticisms as the unstructured professional judgment approaches. Many studies indicate that interrater reliability for professional judgments concerning overall levels of risk as well as the presence of individual risk factors, is strong<sup>76</sup>.

Effective identification of risk for IPV requires teamwork. A wide range of professionals working with survivors of IPV are required to gather detailed information about the history of violence and past and current safety concerns to determine risk for future harm. While some practitioners assess risk based on their professional experience in an informal way, others utilize different risk assessment tools<sup>77</sup>.

In the Family Law context, there is a high prevalence of domestic and family violence cases among litigants, amplified by communication problems among lawyers and courts. Using tools to collect information about the history of domestic violence, the pattern of abuse, and potential risks "is recommended in all family law, including child protection matters<sup>78</sup>." Therefore, it is essential that the courts have accurate information about past or ongoing abuse to better address survivor and child(ren)'s safety concerns<sup>79</sup>.

There is overwhelming evidence that demonstrates that the risk of IPV is heightened during or after separation<sup>80</sup> and that the commencement of court proceedings can escalate the risk of violence even further<sup>81</sup>. This is true for spouses and the entire family<sup>82</sup>. Many survivors disclose continued abuse after separation, including threats towards their children<sup>83</sup>. The use of risk assessments can assist FLPs to collect relevant information with matters that involve decisions on child custody and access<sup>84</sup> since the presence of IPV is often an "important indicator of the risk of physical and sexual abuse of children<sup>85</sup>."

According to Statistics Canada, between 2007 and 2011, the risk of a woman being killed by a legally separated partner was six times higher than the risk of a married woman. Jealousy was often a factor associated with homicide of legally separated women<sup>86</sup>. The rate of re-offence among IPV perpetrators is higher than other perpetrators of violent crimes<sup>87</sup>.

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74 Tonia Nicholls et al, "Risk Assessment in Intimate Partner Violence: A Systemic Review of Contemporary Approaches" (2013) 4: 1 Partner Abuse 76 at 82.

75 Supra note 68 at 207.

76 Ibid.

77 P Randall Kropp, "Some Questions Regarding Spousal Assault Risk Assessment" (2004) 10:6 Violence Women 676–697, online: <<http://journals.sagepub.com/doi/10.1177/1077801204265019>> at 677.

78 Neilson 2014, supra note 9 at 8.

79 Pamela Cross et al, Department of Justice - What You Don't Know Can Hurt You: The importance of family violence screening tools for family law practitioners, online: [www.justice.gc.ca](http://www.justice.gc.ca) (2016) at 15, Last Modified: 2016-08-05.

80 Nicholls et al, supra note 74.

81 Desmond Ellis, "Divorce and the family court: What can be done about domestic violence?" (2008) 46:3 Family Court Review 531-532.

82 Jennifer E McIntosh, Yvonne Wells, & Jamie Lee, "Development and validation of the Family Law DOORS" (2016) 28.11 Psychological Assessment 1516, at 1516.

83 Zeoli et al, supra note 42 at 547.

84 Kropp 2004, supra note 77 at 687.

85 Johanna Hiitola & Teija Hautanen, "Assessing violence in the family—social work, courts, and discourses" (2017) 7.1 Nordic Social Work Research 30, at 33.

86 <https://www150.statcan.gc.ca/n1/pub/85-002-x/2013001/article/11805/11805-3-eng.htm>

87 Nicholls et al, supra note 74.

In cases involving IPV, litigants who have experienced domestic violence are particularly vulnerable to settlement pressure<sup>88</sup>. The use of a standard tool enables the lawyer to determine the most appropriate course of action while ensuring that safety mechanisms are established for the client<sup>89</sup>.

Some Family courts use screening tools to identify appropriate dispute resolution methods<sup>90</sup>. IPV screening can also assist courts in triaging cases, where families are routed into the least intrusive process that will meet their particular needs and circumstances<sup>91</sup>. The Matrimonial Commission of the State of New York has identified that understanding the nature of the conflict in cases as early as possible and routing them accordingly can encourage responsible self-determination by the parties involved<sup>92</sup>. However, routing cases in a triage system is also most effective when there is a nuanced understanding of the IPV, its characteristics and complications, and the availability of options to the clients<sup>93</sup>. For lawyers representing victims and survivors of abuse, screening and assessment tools can inform what other legal recourse they may seek to ensure the safety and wellbeing of their clients. For example, a lawyer might suggest a restraining order or discuss the possibilities of perusing criminal charges with their client<sup>94</sup>.

Detailed screening and assessment tools provide lawyers with an understanding of the nature and context of the abuse as it pertains to parenting and the wellbeing and safety of children. Particularly where children are involved, courts need to be aware of the presence and nature of family violence in order to make the most appropriate orders about child-related decision making by parents, including living arrangements, communications, and exchanges<sup>95</sup>. Courts must also consider whether continued child-parent contact would be in the best interest of the child as it relates to psychological factors, such as trauma experienced by the child<sup>96</sup>.

The British Columbia Family Law Act requires that all dispute resolution professionals assess for IPV in order to determine the dispute resolution process that is appropriate for the family. A Family Justice Center in British Columbia has adopted the use of IPV assessment and screening tools in Family Court. The center screens for family violence, child protection issues, mental health issues, problems of drug and alcohol abuse in order to determine the best outcomes based on the family's unique needs<sup>97</sup>. Such screening allows lawyers to identify family violence and other issues that may impact the parties' respective abilities to care for children<sup>98</sup>.

British Columbia also uses their Violence Against Women in Relationships (VAWIR) Policy, a Protocol for Highest Risk Cases, which is intended to enhance the justice and child welfare system as it pertains to experiences of IPV that are determined to be of high risk upon assessment<sup>99</sup>.

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88 Neilson 2017 supra note 1 at 14.

89 Ibid at 16.

90 Nancy Ver Steegh, Gabrielle Dabis, & Loretta Frederick, "Look Before You Leap: Court system triage of family law cases involving intimate partner violence" 95 Marquette Law Review 955 at 963.

91 Ibid at 960.

92 Ibid at 962.

93 Ibid at 987

94 Cross et al, supra note 79 at 18

95 Ibid at 15.

96 Canada, Department of Justice, Making the Links in Family Violence Cases: Collaboration among the Family, Child protection and Criminal Justice Systems, vol 1 (November 2013) at 44.

97 Ibid at 41

98 Ibid

99 Ibid at 44.

We can look to other jurisdictions for examples of successful screening techniques. In Manitoba, mediators, lawyers, associated social workers, as custody and access assessors who work in the government's Family Conciliation office, are required to conduct screenings for IPV<sup>100</sup>. In Australia, the Detection of Overall Risk Screen (DOORS) framework has recently been adopted to assist the family law system with detecting risk to the wellbeing and safety of families<sup>101</sup>. The DOORS framework involves several layers of assessment that help in identifying risks and resources to assist families.<sup>102</sup>

In conclusion, FLPs must be able to assess for risk effectively. In cases of IPV, "there is no such a thing as no risk."<sup>103</sup> All instances of IPV impose some level of risk, and risk assessments should inform practitioners the "nature, form and degree of danger."<sup>104</sup> Family Law Practitioners are often the first point of contact for survivors of IPV<sup>105</sup> and are critical players in identifying "the risk of domestic violence and abuse during and following divorce proceedings."<sup>106</sup> Adequate identification of IPV and risk of future abuse will better inform what steps to take during a family law proceeding, such as mediation or other forms of ADR.<sup>107</sup> Better identification of risk of IPV may lead to more effective restraining orders, both in criminal and family law context.<sup>108</sup>

### What is Risk?

There are a few conflicting definitions about the risk for violence. In cases of IPV, risk can be defined as the likelihood that violence will occur in the future if actions and safety measures are not in place<sup>109</sup>. It is imperative to identify patterns, frequency, severity and nature of violence in addition to its imminence to occur in the future<sup>110</sup>.

The Centre for Research & Education on Violence Against Women & Children at Western University outlines that risk factors for intimate partner violence can be categorized as either dynamic, static, or victim-focused<sup>111</sup>. This checklist of risk factors was created to raise awareness among service providers regarding the "issues and risk factors surrounding spousal violence and to develop an appropriate safety plan and response to threats for victims". Dynamic risk factors include personal circumstances and/or characteristics that are changing. As dynamic risk factors fluctuate, so do levels of risk of intimate partner violence<sup>112</sup>. An actual or pending separation as well as age, are some examples of dynamic risk factors. It is important to note that dynamic risk factors can become static. For instance, being chronically unemployed is a static risk factor, whereas losing a job is dynamic<sup>113</sup>. Static factors are those that do not change and describe a past circumstance or personal characteristic that is permanent. For example, whether a perpetrator has a history of violence<sup>114</sup>.

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100 Ibid at 41.

101 Ibid at 43.

102 Ibid

103 Kropp 2004, *supra* note 77 at 677.

104 Ibid.

105 Cross et al, *supra* note 79 at 5.

106 Ellis, *Supra* note 81 at 531

107 Alexandria Zylstra, "Mediation and domestic violence: a practical screening method for mediators and mediation program administrators." (2001) *Journal of Dispute Resolution* 253.

108 Mandeep Talwar, "Improving the enforcement of restraining orders after *Castle Rock v Gonzales*" (2007) 45.2 *Family Court Review* 322.

109 Neilson 2014, *supra* note 13 at 44.

110 Kropp, *supra* note 77 at 768.

111 *Supra* note 67 at 18.

112 Ibid

113 Ibid

114 Ibid at 14



While dynamic and static risk factors are largely perpetrator-focused, tools also recognize a third category of risk factors that are victim-focused<sup>115</sup>. These victim-focused factors account for the victim or survivor's own feelings and senses of danger and risk in a way that integrates their needs and vulnerabilities into the assessment. They allow the assessor to consider the life circumstances, social factors, and personal characteristics that might impact the choices and resources that a survivor feels are available to them.

Some IPV risk factors are specific to individual communities. For example, Toivonen & Backhouse identify factors that arise in the LGBTQIS2 community and therefore require particular attention, such as threats from perpetrators of IPV to "out" their partner's sexual history and/or gender identity, whereas transgender, intersex or gender non-conforming people might experience violence specifically intending to challenge their identity.<sup>116</sup> Likewise, Joy Wunderstiz's report on Indigenous perpetrators of violence in Australia suggests that more attention should be paid to identifying "protective factors" for Indigenous violence, such as cultural resilience, family linkages, and personal coping and adjustment skills, rather than risk factors.<sup>117</sup> Therefore, while static, dynamic and victim-focused risk factors are the three major categories of risk factors in IPV, a suitable procedure must be mindful of the intersectional realities of survivors of IPV and take into account culturally appropriate and contextual considerations in assessing risk.

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115 Ibid at 18

116 Cherrie Toivonen & Corina Backhouse, "National Risk Assessment Principles for domestic and family violence" (2018), online (pdf): ANROWS < [https://d2rn9gno7zhxqg.cloudfront.net/wp-content/uploads/2018/07/19030421/ANROWS\\_NRAP\\_National-Risk-Assessment-Principles.1.pdf](https://d2rn9gno7zhxqg.cloudfront.net/wp-content/uploads/2018/07/19030421/ANROWS_NRAP_National-Risk-Assessment-Principles.1.pdf)>

117 Austl, Commonwealth, Australian Institute of Criminology, Indigenous perpetrators of violence: Prevalence and risk factors for offending, by Joy Wundersitz (AIC Reports: Research and Public Policy Series, 2010) 105 at 97 & 98.

Dynamic	Static	Victim-focussed
<ul style="list-style-type: none"> <li>• Actual or pending separation</li> <li>• Child custody or access disputes</li> <li>• Escalation of violence</li> <li>• Perpetrator unemployed</li> <li>• Victim and perpetrator living common-law</li> <li>• Excessive alcohol and/or drug use by perpetrator</li> <li>• Depression – in the opinion of family/ friend/acquaintance or professionally diagnosed – perpetrator</li> <li>• Other mental health or psychiatric problems - perpetrator</li> <li>• Obsessive behaviour displayed by perpetrator, including stalking and/ or possessive jealousy</li> <li>• New partner in victim's life</li> <li>• Access to or possession of any firearms</li> <li>• Sexual jealousy – perpetrator</li> <li>• Misogynistic attitudes perpetrator</li> <li>• Extreme minimization and/or denial of spousal assault history</li> <li>• Youth of couple</li> <li>• Significant perpetrator life changes</li> </ul>	<ul style="list-style-type: none"> <li>• History of domestic violence</li> <li>• History of violence outside of the family by perpetrator</li> <li>• Prior threats to kill victim</li> <li>• Prior threats or assault with a weapon</li> <li>• Prior threats or attempts to commit suicide by perpetrator</li> <li>• Prior attempts to isolate the victim</li> <li>• Controlled most or all of victim's daily activities</li> <li>• Prior hostage-taking and/ or forcible confinement</li> <li>• Prior forced sexual acts and/ or assaults during sex</li> <li>• Prior destruction or deprivation of victim's property</li> <li>• Prior violence against family pets</li> <li>• Prior assault on victim while pregnant</li> <li>• Choked victim in the past</li> <li>• Perpetrator was abused and/or witnessed domestic violence as a child</li> <li>• Presence of stepchildren in the home</li> <li>• Failure to comply with authority – perpetrator</li> <li>• Perpetrator exposed to/ witnessed suicidal behaviour in family of origin</li> <li>• Age disparity of couple</li> <li>• Perpetrator threatened and/or harmed children</li> </ul>	<ul style="list-style-type: none"> <li>• Extreme fear of perpetrator</li> <li>• Inconsistent attitude or behaviour (i.e. ambivalence)</li> <li>• Inadequate support or resources</li> <li>• Unsafe living situation</li> <li>• Health problems</li> <li>• Mental health issues</li> <li>• Addictions (alcohol/ drug abuse)</li> <li>• Disability</li> <li>• Language and/or cultural barriers (e.g., new immigrant or isolated cultural community)</li> <li>• Economic dependence</li> <li>• Living in rural or remote locations</li> <li>• Fear or distrust of legal authorities</li> <li>• Lack of awareness or suspicion of mainstream services</li> </ul>

When it comes to risk assessment, it is crucial to note that the risk for violence can be influenced by context and can rapidly increase or decrease according to the change of circumstances.<sup>119</sup> Therefore, the assessment of risk and safety should be ongoing.<sup>120</sup>

<sup>118</sup> Supra note 111 at 21.

<sup>119</sup> Kropp 2004, supra note 77 at 682.;

<sup>120</sup> Neilson 2014, supra note 13 at 9.

## 6 Intimate Partner Violence Risk Identification and Assessment risk factors criteria

### Intimate Partner Violence Risk Identification and Assessment ("IPV RIA")

IPV RIA is to be used by Family Court stakeholders to screen and identify any potential risk for future violence where a history of IPV has been identified. IPV RIA can assist stakeholders in identifying potentially high-risk situations by gathering information on current and historical factors related to the survivor's experience of IPV.

The development and design of the IPV RIA were informed by extensive consultation with family court stakeholders, survivors of violence, and a review of IPV and risk screening and assessment scientific literature. Most risk factors included in the tool for investigation have been validated through research and should be considered as red flags for potential future harm and/or lethality.

IPV RIA questions and categories considered the definition of family violence under the new *Divorce Act*<sup>121</sup> and factors that courts must consider when assessing situations of family violence. IPV RIA questions allow the assessor to explore the types of abuse, including its nature, frequency, and escalation. The assessor seeks detailed information on patterns of coercive and controlling behaviour in the context of IPV, as these patterns might indicate that abuse is likely to continue and escalate after separation. In cases involving coercive control, the likelihood of severe harm or lethality is higher than when other types of abuse are also present.<sup>122</sup>

### IPV RIA Risk factors criteria: Literature review and Domestic Violence Death Review Committee

There is much consensus in the literature about the most common risk factors to be examined in the context of IPV.<sup>123</sup> IPV RIA includes these factors validated by research and recommended by the Domestic Violence Death Review Committee ("DVDRC").

The DVDRC was created in 2003 to assist the Chief Coroner Office in the review and investigation of deaths caused by domestic violence. The DVDRC is comprised of a multidisciplinary team specialized in domestic violence, including the criminal justice system, the health care system, law enforcement, social services, and academia. The main objective of the DVDRC is to make recommendations based on reviews and investigations of homicide cases to enhance awareness, education, and current responses and strategies to prevent future lethality cases as a result of domestic violence incidents.<sup>124</sup>

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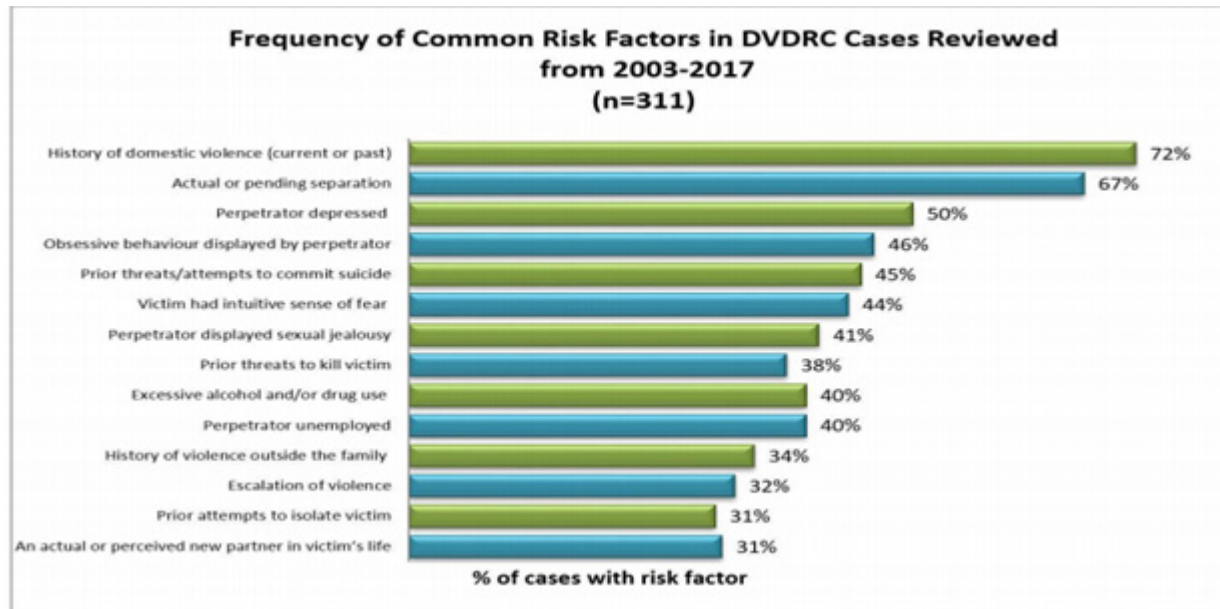
121 RSC, 1985, c 3 (2nd Supp.)

122 Andy Myhill & Katrin Hohl, "The 'Golden Thread': Coercive Control and Risk Assessment for Domestic Violence" (2019) 34:21–22 *J Interpers Violence* 4477–4497, online: <<http://journals.sagepub.com/doi/10.1177/0886260516675464>>.

123 Kropp 2004, *supra* note 77 at 679.

124 Domestic Violence Death Review Committee Annual Report 2017, (Ontario, Canada, 2018).

The DVDRC identified eight of the most common risk factors for homicide IPV. The graph below demonstrates the frequency of the most common risk factors in the cases reviewed by the committee from 2003-2017.



The DVDRC's data showed that in 71% of cases of IPV, resulting in a homicide, seven or more risk factors were present.<sup>125</sup> The combination of these risk factors in the majority of spousal homicide cases demonstrates the need for professionals working with survivors of IPV to conduct more in-depth assessments of potential future harm and/or lethality.

### IPV RIA Risk factors criteria: Family Court needs-assessment interviews

The objective of the needs-assessment with court stakeholders was to identify practices, protocols, and potential use of tools when assessing IPV cases and potential high-risk situations. Court stakeholders shared their perspectives and suggestions regarding the development of the risk assessment tool in Family Court.

Thirty-eight Family Court stakeholders participated in-person, one-on-one interviews. Participant positions ranged from duty counsel manager, full-time duty counsel, per diem duty counsel and advice lawyers, information referral coordinators, family court support workers, and mediators.

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<sup>125</sup> Ibid.

The design of IPV RIA I and II included consideration of most recommendations from the needs-assessment interviews. The table summarizes family court stakeholders' risk factors suggestions during face-to-face consultation meetings.

**Table: Family court stakeholders' risk factors suggestions**

* Imminent risk of harm to women and their children	* Injuries and hospitalization	* Substance abuse
* Social media use	* Parties still living in the same house	* Stalking
* History or imminent risk of child abuse	* Recent separation	* Access to passports or attempts to issue new passports
* Perpetrator history of violence against other people and pets	* Perpetrator breach of court orders	* Power imbalances
* Safety concerns raised by survivors of violence	* Access to weapons	* Family ties in other jurisdictions
* Police involvement	* History of not returning children from an access visit/ and or child abduction	* Communication with the other party
* Existing criminal charges, bail conditions	* Relationship history	* Frequency of incidents by all types of abuse, escalation over time
* Children's issues – safety concerns	* Culture/religion backgrounds	* Surveillance/ monitoring issues such as cameras, GPS devices, not access to phone or emails)
* Child protection services involvement	* Recent incidents of violence	
* Financial control issues	* History of separation	
* Self-containment	* Mental health concerns	
* Choking	* History of staying in a shelter	
* Types of abuse (emotional, psychological, financial, spiritual, sexual and physical)	* Survivor's level of fear	
	* Situations where people are in isolation	
	* Perpetrator criminal history/ charges	
	* Language barriers	

### Risk factors criteria: Survivor interviews

The needs assessment interviews with survivors aimed to document their perspectives and experiences with service provision and outcomes in family court. Survivors shared their experiences and provided inputs on service delivery strengths and challenges. A summary of survivors' suggestions is below, and the details of interviews were included in the needs assessment report that has been shared with family court stakeholders.

### Survivors Shared experiences in family court

All survivors accessed services in family court through Family Law Information Centres, and overall, respondents stated that they were satisfied with services. Two survivors indicated that they were referred to the family court support program during their first contact with family court, another had the referral after requesting a motion to change due to safety concerns, and others were not familiar with the program.

One of the respondents indicated that she was not satisfied with the services provided. She stated that she was not provided with sound legal advice and had to fill out the application by hand since she did not qualify for Legal Aid Ontario (LAO) but could not pay legal fees. She indicated that her safety concerns were not acknowledged during the family court process. She stated that after receiving final orders, she had to file a motion to change due to safety concerns. She mentioned that after a few not positive experiences with duty counsel in family court, her last interaction with a different duty counsel was very helpful. She stated that "Duty counsel was very attentive, provided legal advice and a referral to Legal Aid Ontario and the family court



support program.”

Another survivor indicated that she had to self-represent since she did not qualify for LAO and was referred to the family court support program after she disclosed her concerns. She stated the following:

“I think the Barbra Schlifer Clinic does a good job to help stop the violence, protect the woman or at least document it. But we need help with the legal part; it is important to have access to lawyers, to your rights and obligations, and understand the law. I’m a minority group, even if I can read and write in English, but we are experiencing the cuts. I am an educated woman but still, in this situation, having access to legal advice is crucial to get out of it. There is a lot of fear about the court: of not doing things right, big fear of going to court, that the court is bureaucratic, fear of documents, that it is long and expensive. So how much money I need to avoid going to court and get an agreement with my ex-partner for my protection? I see that lawyers can extend the negotiation period with possibly not even ending in an agreement. I found that I can just start a court process by myself and use the resources in the court instead (duty counsel). It is a myth; you cannot do this process yourself.”

Another survivor stated that even though she included her ex-husband’s charges and stalking behavior in her family court application, she had to facilitate exchanges every other week. She further stated that,

“every way I turned, I did not have help. Nobody recommended me a restraining order; the judge asked us to work on an agreement. I had to do a lot of the exchanges, which was very uncomfortable. He was very aggressive. Even though I said that I was concerned about my safety, nobody took that into consideration. My ex-partner has been staking me continuously, even nowadays and he ended up assaulting my new partner, and I reported everything to the police. He was arrested and charged with criminal harassment and assault. I still have concerns about him, concerns for my safety and my child.”

Another respondent indicated that she felt that the court did not acknowledge her safety concerns and the impact of intimate partner violence on her and her child. She stated that,

“No one wanted to help, people would be referring me to others all the time, talk to someone, call here and call there. I just wonder when people notice this situation, only when someone dies? Why not deal with the situation before someone dies?”

## Suggestions and recommendations

All survivors suggested more LAO funding and services for survivors of intimate partner violence. One survivor included other topics such as therapy and group sessions, having more spaces for women to share ideas for support/solidarity. She also noted the need for more awareness and training about ongoing safety issues as violence does not end with separation, especially when there are children involved, and to have ongoing education of domestic abuse for survivors. Another survivor stated that having a tool to assist court staff and judges to validate the survivor’s safety concerns would help with better court orders. Another suggestion was related to childcare volunteers for small children, making courts child-friendly for women, provision of safe waiting space, more students helping with the forms, and more family court support workers. A different suggestion was the need for more training for court staff and lawyers on the impact of trauma on survivors and children and how abusers can use the system to continue his abuse towards survivors. A final suggestion was more follow-up from the Victim Witness Assistance program worker.

## 7 Looking beyond acts of physical abuse: Coercive controlling behaviour

Many risk assessment tools emphasize physical safety.<sup>126</sup> They often focus on the likelihood of future harm, including lethality, based on risk factors associated with physical violence or threats.<sup>127</sup> However, in Family Law and Child Protection contexts, it is essential to understand and identify types of domestic violence beyond the physical. Family Law Practitioners must be able to identify patterns of coercive control and the resulting emotional and psychological effects on the survivor and children.<sup>128</sup>

Several research studies have emphasized the need to explore the history of abusive and controlling behaviours from the perpetrator.<sup>129</sup> According to one study, the dynamics of coercive control should be seen as the “Golden Threat for domestic violence cases” since it has been identified in most high-risk cases. Some of the coercive controlling behaviours cited in the study were isolation from family and friends, controlling daily activities, stalking or harassing, excessive texting and phoning, extreme jealousy, threats to kill, and threats of self-harm or suicide.<sup>130</sup>

Stark (2013) defines coercive control as “a strategic course of oppressive conduct that is typically characterized by frequent, but low-level physical abuse and sexual coercion in combination with tactics to intimidate, degrade, isolate, and control victims.”<sup>131</sup> It is thus essential that FLPs be attentive and ask IPV survivors about the history of coercive controlling behaviour and its escalation over time. Most cases of lethality analyzed by the DVDRC had a component of coercive controlling behaviour, along with other types of abuse.<sup>132</sup> Further, several research studies suggest that, in cases involving coercive control, the likelihood of severe harm or lethality is higher than when other types of abuse are present.<sup>133</sup> As explained by Cross et al., in both Family and Criminal Law, “relationships of coercive controlling violence require the strongest legal interventions.”<sup>134</sup>

## 8 IPV Risk Identification and Assessment Framework (RIA)

The IPV RIA framework is a three-part tool—IPV RIA I, II, and III—used to identify potential high-risk situations and inform how to best assist victims of IPV in Family Court. It was designed from extensive consultation with Family Court stakeholders, survivors of violence, and a review of IPV and risk assessment scientific literature. Most risk factors have been validated through research and should be considered as red flags for potential future harm and/or lethality.

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<sup>126</sup> Neilson 2017, *supra* note 1 at 60.

<sup>127</sup> Kropp 2004, *supra* note 77 at 676.

<sup>128</sup> Neilson, *supra* note 1 at 60.

<sup>129</sup> Evan Stark, *Coercive control: how men entrap women in personal life* (New York; Oxford: Oxford University Press, 2009); Andy Myhill, “Measuring Coercive Control: What Can We Learn From National Population Surveys?” (2015) 21:3 *Violence Women* 355–375, online: <<http://journals.sagepub.com/doi/10.1177/1077801214568032>>; Jacquelyn C Campbell et al, “Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study” (2003) 93:7 *Am J Public Health* 1089–1097, online: <<http://ajph.aphapublications.org/doi/10.2105/AJPH.93.7.1089>>; Myhill & Hohl, “The ‘Golden Thread’”, *supra* note 122.

<sup>130</sup> Myhill & Hohl, *supra* note 122.

<sup>131</sup> Stark, E, “The dangers of dangerousness assessment.” (2013) 6:2 *Family & Intimate Partner Violence* 13–22 at 18.

<sup>132</sup> *Supra* note 124.

<sup>133</sup> Stark, E, “The dangers of dangerousness assessment.” (2013) 6:2 *Family & Intimate Partner Violence* 13–22 at 18.

<sup>134</sup> Cross et al, *supra* note 79 at 9.

## IPV RIA I: Risk Screening

IPV RIA I was designed to identify potential high-risk situations that require more in-depth assessments and/or interventions to protect survivors from future harm. It consists of 13 yes-or-no questions based on risk factors validated by multiple research studies and the Death Review Committees. The 12 risk factors are identified in the table below.

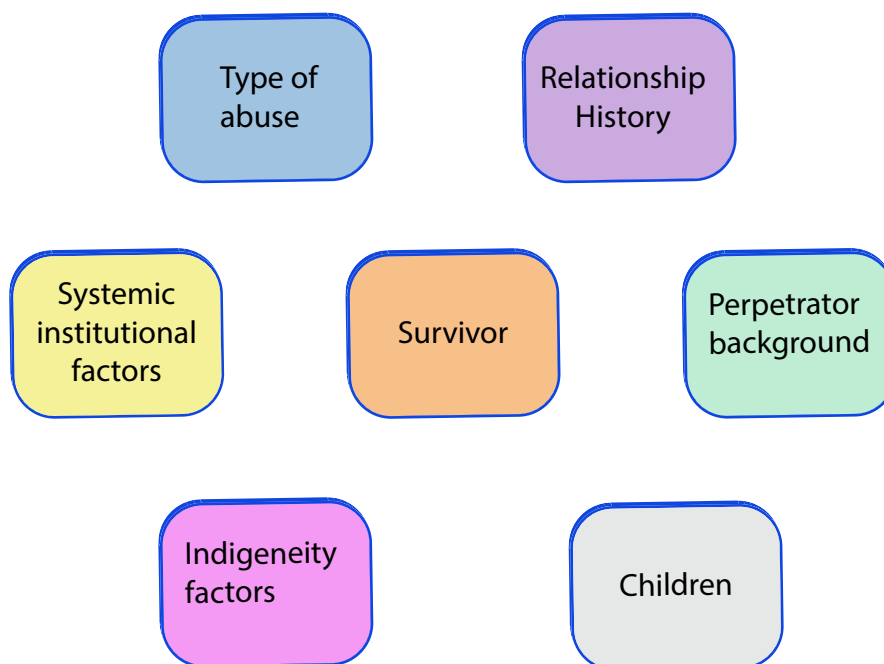
**Table II: RIA I Risk Factors**

Category	Risk factors to be investigated
<b>Type of abuse</b>	Verbal, emotional, financial, physical, and sexual. Coercive control: controlling behaviour, intimidation and isolation, stalking, harassment calls, cyberstalking, video surveillance, extreme jealous behaviour).
<b>Relationship history</b>	Actual, pending or abuser's perception of potential separation, escalation of abuse in severity and frequency.
<b>Perpetrator background</b>	Use of alcohol and drugs, suicide threats and attempts, criminal charges and/or conviction order, breach of court orders and/or resistance to being arrested, history of violence against others (previous partner, acquaintances, strangers, pets ), access to weapons (use or threat to use).
<b>Survivor</b>	Survivor's level of fear, expressed safety concerns, previous attempts to end the relationship, social isolation and access to support.
<b>Child(ren)</b>	History of child(ren) abductions and/or threats.

Questions related to the history of abuse explore the timeline of the perpetrator's behaviour in terms of the incidents, as recent (within the previous 4 weeks) or past (more than 4 weeks ago). The frequency of the behaviour, noted on a scale from 1-5, should also be investigated as frequency may relate to the severity of abuse and the possibility for serious harm. The assessor must inquire into the frequency and severity of abuse for each risk factor listed in the assessment tool.

## IPV RIA II: Risk Identification

IPV RIA II consists of seven categories that allow the assessor to investigate current and historical factors related to the survivor's experience of violence that can impact the safety of the survivor and/or children. The tool identifies broader systemic barriers that can contribute to the survivor's level of risk of future harm. The main categories are listed in the figure below.



For each category, there is a myriad of risk factors to be investigated by the assessor. A summary of each category and its main risk factors are below, followed by a table that lays out all risk factors of IPV RIA II.

### 1 Types of abuse

Family Law Practitioners should ask questions about various types of past and threatened abuse, including verbal, emotional, financial, physical, and sexual abuse. Even though the purpose of IPV RIA is to identify risk of future harm, researchers note that a pattern of “past emotional, financial, physical, or sexual violence and abuse against family members” has been associated repeatedly with continuing IPV.<sup>135</sup> In addition, FLPs need to be aware of the types and patterns of abuse and understand how these can be related to parenting and children's wellbeing and safety.<sup>136</sup> Specific examples of abuse include threats of harm to individuals, pets, and personal property, sexual abuse and forced sexual activity; emotional abuse and insults; and online abuse, such as cyberstalking.<sup>137</sup>

Of note, the severity of abuse is often not linear. Family Law Practitioners should ask questions that could demonstrate a pattern of increasing or escalation of frequency or severity of abuse and violence.<sup>138</sup>

Details regarding a former partner's behaviour during the course of the relationship that are

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<sup>135</sup> Neilson 2017, *supra* note 5 at 46.

<sup>136</sup> Cross et al, *supra* note 79 at 29.

<sup>137</sup> *Ibid* at 36.

<sup>138</sup> Neilson 2017, *supra* note 5 at 47.

indicators of risk include an attempt to impose significant levels of control over various aspects of the survivor's life, including financial control or relationship-decision making, such as about children.<sup>139</sup> Obsessions with the survivor, including high levels of possessiveness and jealousy, are also red flags.<sup>140</sup>

Several research studies have demonstrated that stalking overlaps with physical violence and coercive control, and also a significant increase in stalking behaviour during separation.<sup>141</sup> The use of different devices to cyberstalking and monitor survivors has been a growing concern and "is now such a regular occurrence as to be characteristic of many coercive domestic violence cases."<sup>142</sup>

Family Law Practitioners should also inquire about the history of strangulation attempts. Strangulation (choking) is a well-documented risk factor for lethality in domestic violence. As noted by Neilson, "medical research now makes clear that victims can die from strangulation without the presence of a single external mark."<sup>143</sup>

## 2 Relationship history

History of the intimate relationship can be indicators of a risk of future harm, such as the status of separation or divorce proceedings. According to Desmond Ellis, "[a]pproximately 50% of couples who have separated report being victims of violence and/or emotional abuse by their former intimate partners."<sup>144</sup> According to Statistics Canada, common-law couples have become more prevalent, and research has suggested that individuals in common-law relationships are at a higher risk of spousal violence.<sup>145</sup>

## 3 Perpetrator background

Aspects of the perpetrator's background, including prior incidents, character traits, and overall health, can also be indicators of risk. According to Nichols-Hadeed, perpetrators are more likely not to have graduated from high school, have problems with drug or alcohol abuse, are in fair or poor mental health (including thoughts of suicidal ideation), and have a history of threatened or actual pet abuse.<sup>146</sup> Pet abuse can indicate instances of coercion and control as an attempt to reconciliation "or to punish, control, or silence children."<sup>147</sup> It is also crucial to investigate suicide attempts or threats since there is a correlation between suicidal tendencies and domestic violence, homicide and suicide, and also harm to children.<sup>148</sup>

Perpetrators may also have experienced exposure to violence as a child, have patterns of unemployment or financial hardship, or experienced other types of trauma throughout their lives. They may have histories with gun use or access to weapons, and incidences of sexual assault and/or rape,<sup>149</sup> or other prior criminal (i.e., non-domestic) convictions for violence, assault, or harassment.<sup>150</sup> Finally, they may have a history of problems with authority, such as

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<sup>139</sup> Cross et al, *supra* note 79 at 89.

<sup>140</sup> Neilson 2017, *supra* note 5 at 47.

<sup>141</sup> Logan, T (2010). Research on partner stalking: Putting the pieces together. Lexington, KY: University of Kentucky, Department of Behavioral Science & Center on Drug and Alcohol Research at 4.

<sup>142</sup> Neilson 2014, *supra* note 13 at 37.

<sup>143</sup> Neilson 2017, *supra* note 5 at 362.

<sup>144</sup> Ellis, *supra* note 81 at 531.

<sup>145</sup> Maire Sinha, "Section 3: Intimate Partner Violence" (2011) at 38, online (pdf): Statistics Canada < <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2013001/article/11805-eng.pdf?st=U856CpEW>>.

<sup>146</sup> Corey Nichols-Hadeed et al, "Assessing danger: What judges need to know" (2012) 50.1 Family court review 150 at 151.

<sup>147</sup> Neilson 2014, *supra* note 13 at 37.

<sup>148</sup> Neilson 2017, *supra* note 5 at 355.

<sup>149</sup> Corey Nichols-Hadeed et al, *supra* note 146 at 155.

<sup>150</sup> Neilson 2017, *supra* note 5 at 46; Talwar, *supra* note 108 at 330.



failing to comply with restraining or no-contact orders, other court orders, or failing to complete IPV prevention programs.<sup>151</sup>

#### 4 Children

Domestic violence does not need to be explicitly directed at a child in order to cause harm. The emotional consequences of direct and indirect domestic violence on children include psychological, emotional, and neurological effects that can cause a host of long-term behavioural and mental health problems.<sup>152</sup>

There is substantial evidence to show that a father's violence towards a child's mother has adverse impact on the child, whether this abuse is witnessed directly or indirectly.<sup>153</sup> Exposure to such abuse is associated with numerous adverse outcomes for children, such as fear and anxiety, anti-social behaviour, and increased behavioural problems.<sup>154</sup> These outcomes may continue throughout their lives.<sup>155</sup> Further, in 30-60% of homes experiencing IPV, child abuse also takes place.<sup>156</sup> Perpetrators may redirect abusive behaviour towards the children when the abused parent is no longer present.<sup>157</sup>

Women who share children with an abuser are at a higher risk of post-separation violence, given that they often have ongoing contact with the abuser.<sup>158</sup> Information about the perpetrator's interactions with and involving the children of the relationship can provide insight into the risk of future harm, including how the survivor has historically been able to manage conflict with the other parent.<sup>159</sup> Key red flags include whether the child has witnesses one or more domestic assault incidents and direct violence against the children by the perpetrator.<sup>160</sup> Other risk factors may include whether the survivor is permitted to make decisions about the children, threats to take children away, or other coercive behaviours relating to the children<sup>161</sup>, and the presence of stepchildren.<sup>162</sup>

The risk factors associated with potentially lethal outcomes in domestic violence situations are the same for adults and children.<sup>163</sup> Therefore, as advocated for by Neilson, "suspension of access until risk and safety can be assessed and assured is the safest course of action."<sup>164</sup>

#### 5 Institutional/ Systemic Factors

Intimate Partner Violence is often about power and control. The power imbalances at the center of IPV is one of gender inequality and patriarchy, which is perhaps why IPV disproportionately impacts women. Intimate Partner Violence -related power imbalances also affect trans and non-binary people. Intersecting factors such as immigrant and refugee status, income level, race,

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<sup>151</sup> Neilson 2017, supra note 5 at 47.

<sup>152</sup> Ibid at 187.

<sup>153</sup> Lynne Harne, *Violent Fathering and the Risks to Children: The Need for Change* (Bristol, UK: Policy Press, 2011) at 23.

<sup>154</sup> Ibid at 23

<sup>155</sup> Ibid at 19.

<sup>156</sup> Zeoli et al, supra note 42 at 547.

<sup>157</sup> Neilson 2017, supra note 1 at 196

<sup>158</sup> Jennifer L Hardesty & Grace H Chung, "Intimate partner violence, parental divorce, and child custody: Directions for intervention and future research." (2006) 55.2 *Family Relations* 200 at 201.

<sup>159</sup> McIntosh et al, supra note 82 at 1517.

<sup>160</sup> Talwar, supra note 108 at 330.

<sup>161</sup> Cross et al, supra note 79 at 59-60.

<sup>162</sup> Peter Jaffe, Canada & Department of Justice, *Risk factors for children in situations of family violence in the context of separation and divorce* (Ottawa: Department of Justice, 2015) at 24.

<sup>163</sup> Neilson 2014, supra note 13 at 60.

<sup>164</sup> Ibid.

residence, sexuality, and ability can contribute to the risk of IPV.<sup>165</sup>

Understanding gender-based violence requires an intersectional lens. Intersectionality refers to the multiplicities of one's social identity and the impacts of the same on a person's unique experiences.<sup>166</sup> As it relates to IPV, intersectionality refers to hierarchies of power and oppression that exist in various dimensions and impact an individual's experience of IPV, including any barriers that they may face in receiving support and finding safety, and the efficacy of different interventions. The social location also impacts the unique manifestations of individual personal, social, and financial consequences of violence.<sup>167</sup> Violence is shaped by gender roles, as well as many other social positions and the inequalities that exist between them. Per Strid and Verloo, "[t]he structural intersectionality question is about how other inequality regimes intersect with the gender regime, creating incentives and opportunities for violence, and about differentiating which persons socially located at the intersections of these inequality, regimes are most at risk from violence."<sup>168</sup>

While IPV can affect everyone regardless of social status or cultural background; however, , immigrant and refugee women are more vulnerable to IPV as they have "compounding and interrelated individual, familial, cultural, social and systemic level risk factors."<sup>169</sup> The risk for domestic violence among immigrant and refugee women can vary based on "immigration status, length of stay in the host country, and culture as well as migration processes, acculturation levels, gender role expectations, socioeconomic status, marginalization, religious beliefs, and socio-cultural influences."<sup>170</sup> Migrant women face increased vulnerability due to social and physical isolation, language barriers, and systemic barriers that create further silence around domestic violence. Immigrant women may also be dependent on their partners for post-migration status or sponsorship and may not be aware of their legal rights due to a lack of knowledge of the Canadian systems, laws and culture. All of these factors serve to reinforce barriers to seek supports that are available to them in Canada that can further compromise their safety.

There are no recorded differences between immigrant and Canadian-born women in the physical and psychological consequences of IPV. This could be because of the lack of data specific to migrant women and non-status women experience. There is a large percentage of women with precarious immigration status, non-status for the whole, it's almost impossible to capture any data because of systemic barriers. The lower levels of trust held by immigrant women survivors of abuse towards institutions can have significant implications on their help-seeking behaviour and suggest a need for intervention and prevention programs that are culturally appropriate and sensitive.<sup>171</sup> In situations where victims and survivors leave their abusive partners, they may become more vulnerable and isolated.<sup>172</sup>

Many immigrant and refugee women identify as racialized. This adds another layer of nuance to their experience of violence. Nixon and Humphreys suggest that "the increased vulnerability to

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165 "Intimate partner violence (IPV) and child welfare", online: OACAS Library Guides <<https://oacas.libguides.com/c.php?g=706916&p=5031046>>.

166 Nicole Jeffrey et al, "Preventing Domestic Homicide in Canada: Current Knowledge on Risk Assessment, Risk Management and Safety Planning with Vulnerable Populations" (2018), online: Canadian Domestic Homicide Prevention Initiative <[www.cdhipi.ca/literature-review-report](http://www.cdhipi.ca/literature-review-report)>.

167 Ibid.

168 Sofia Strid & Mieke Verloo, "Intersectional complexities in gender-based violence politics" in Elizabeth Evans & Eléonore Lépinard, eds, *Intersectionality in Feminist and Queer Movements*, 1st ed (London: Routledge, 2019) 83 at 85.

169 Sarah Yercich & Kate Rossiter, "Immigrant and Refugee Populations" (2018), online: Canadian Domestic Homicide Prevention Initiative <[www.cdhipi.ca/literature-review-report](http://www.cdhipi.ca/literature-review-report)>.

170 Ibid.

171 Janice De Mont & Tonia Forte, "An exploratory study on the consequences and contextual factors of intimate partner violence among immigrant and Canadian-born women" (2012) at 1, online (pdf): BMJ Open <[cdhipi.ca/sites/cdhipi.ca/files/consequences\\_of\\_IPV.pdf](http://cdhipi.ca/sites/cdhipi.ca/files/consequences_of_IPV.pdf)>.

172 Ibid.

domestic violence of minority ethnic women is related to poverty and income” as minority ethnic families in “late capitalist societies” are more likely to experience poverty than white families.<sup>173</sup> Poverty is associated with underemployment, cultural isolation, under education, language barriers, and undocumented status.

Household income may not provide an accurate measure of a woman’s access to that income. Women who are employed are at less risk of experiencing IPV, and the social networks and financial independence associated with employment can be profound in supporting women from various social locations.<sup>174</sup> Some immigrant and refugee women are unable to work for multiple reasons and are therefore more reliant on their partners and more susceptible to violence. Women belonging to cultures that practice forced marriages, honour killings, or other cultural norms that are averse to separation and/or perpetuate violence towards women may also be at increased risk.<sup>175</sup>

Women with disabilities are susceptible to a wider range of abusive behaviours than women without disabilities are likely to experience.<sup>176</sup> More than one in five women with a disability experience emotional, financial, physical, or sexual abuse committed by an intimate partner in the past 5 years, and roughly one in four women with a cognitive or mental health-related disability were sexually abused by an adult before the age of 15.<sup>177</sup> Women with disabilities also face low rates of employment. The resulting increased social isolation increases their susceptibility to IPV.<sup>178</sup>

Black women face unique risks of violence. As Robyn Maynard writes in her book *Policing Black Lives*, “in many Canadian cities, Black children and youth are removed at appalling rates from their families and placed in state care or foster homes, where they experience trauma, isolation and a wide variety of other harms.”<sup>179</sup> This experience and the threat of police brutality, coupled with the fear of reinforcing racist stereotypes around Black male aggression, creates significant barriers for women seeking support and safety when experiencing IPV, especially when thinking of leaving their abusive partners.<sup>180</sup>

For 2SLGBTQ+ individuals, the frequency of abuse by the police is also a consideration in whether to leave an abusive relationship and whether they will have access to appropriate support and safety resources. Profiling transwomen as sex workers and selective non-enforcement in domestic violence investigations are added concerns for 2SLGBTQ+ individuals.<sup>181</sup> Gay and trans victims and survivors have often turned away from shelters and denied protection orders, which form critical supports for people fleeing violence.<sup>182</sup>

Threats of state-based violence for many marginalized survivors, particularly associated with law-and-order approaches that contribute to mass incarceration, prevent many victims and

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173 Jennifer Nixon & Cathy Humphreys, “Marshalling the Evidence: Using Intersectionality in the Domestic Violence Frame” (2010) 17:2 *Social Politics* 137 at 147.

174 Yercich & Rossiter, *supra* note 169.

175 McIntosh et al, *supra* note 82 at 1516.

176 Nixon & Humphreys, *supra* note 173 at 151.

177 Adam Cotter. 2018. “Violent victimization of women with disabilities, 2014.” *Juristat*. Vol. 38, no 1. Statistics Canada Catalogue no. 85-002-X.

178 Nixon & Humphreys, *supra* note 173 at 149.

179 Robyn Maynard, *Policing Black lives: state violence in Canada from slavery to the present*, (Winnipeg, Manitoba: Fernwood Publishing, 2017) at 186.

180 *Ibid*

181 Krista McQueeney, “Teaching Domestic Violence in the New Millennium: Intersectionality as a Framework for Social Change” (2016) 22:12 *Violence Against Women* 1463 at 1464.

182 *Ibid*.

survivors from accessing support and increase their vulnerability to violence.<sup>183</sup>

Furthermore, a holistic assessment of a survivor's situation and risk should account for how these social factors may impact their choices and decisions, particularly as it relates to her experiences of IPV.<sup>184</sup> While some risks to survivors of IPV are apparent and have an immediate relation to the abuse, there may be other significant risk factors that remain less obvious or hidden. These risks, called social risks, reflect on a survivors' external conditions, pressures, norms, and practices that may increase their level of danger.<sup>185</sup> This concept encourages practitioners to assess the needs of each survivor from different angles<sup>186</sup> in order to have a fulsome picture of their survival needs, skills, strengths, priorities, and understanding of their response to abuse.<sup>187</sup>

The assessment of social risks acknowledges that risk does not arise just from isolated incidents or singular experiences, but rather that they interact with complex and historically entrenched systems.<sup>188</sup> Each survivor's identity is an intersectional amalgamation of their specific life events and experiences, as well as the collective consciousness of their community and society.<sup>189</sup>

Family Law Practitioners must consider all factors associated with women's intersectionality that require a fulsome and robust understanding of IPV and an awareness of how women's social location impacts their experiences of IPV and oppression. Family Law Practitioners should ask questions about a survivor's history with social services, systems, and institutions, which may make the survivor reliant on a partner in order to obtain continued institutional support and also involvement in court proceedings (criminal, civil, or otherwise), and disability payments.

## 6 Indigeneity factors

Intimate Partner Violence is a serious issue in Indigenous communities.<sup>190</sup> According to a report from the Royal Commission on Aboriginal Peoples, "the failure in family functioning can be traced in many cases to interventions of the state deliberately introduced to disrupt or displace the Aboriginal family".<sup>191</sup> Historical genocide and ongoing racism and colonialism have resulted in the marginalization and neglect of Indigenous peoples and communities in Canada, particularly Indigenous women, girls and 2SLGBTQQIA people.<sup>192</sup> The Indian Act of 1876, a colonial policy still in force that continues to discriminate and oppress First Nations, is responsible for the establishment of the residential school system that removed approximately 150,000 Indigenous children from their homes with the intention of assimilating them with white society.<sup>193</sup>

Former Chief Justice Beverly McLachlin described the Indian Residential School experience as a "cultural genocide" with the attempt to destroy Indigenous peoples and their culture.<sup>194</sup>

Many reports describe sexual, physical, emotional, mental, spiritual and cultural abuses that were inflicted on Indigenous children at these schools. Such traumas were left untreated and

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183 Supra note 177 at 127.

184 Radhia A Jaaber & Shamita Das Dasgupta, "Assessing Social Risks of Battered Women" (2016), online (pdf): Praxis International <<http://praxisinternational.org/wp-content/uploads/2016/02/AssessingSocialRisk.pdf>> at 12.

185 Ibid

186 Ibid at 14.

187 Ibid.

188 Ibid.

189 Ibid.

190 Olivia Peters, Jae Ursel & Claudette Dumont-Smith, "Indigenous Population" (2018), online: Canadian Domestic Homicide Prevention Initiative <[www.cdhipi.ca/literature-review-report](http://www.cdhipi.ca/literature-review-report)>.

191 Canada, Royal Commission on Aboriginal Peoples, *Gathering Strength*, vol 3 (1996) at 52.

192 National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Executive Summary of the Final Report* (2019) at 3.

193 Supra note 191.

194 Ibid

thus were passed on intergenerationally. Other state actions, such as the theft of Indigenous land and disregard for Indigenous forms of governance and sovereignty, contribute to the disproportionate experience of violence against Indigenous women.<sup>195</sup>

For many Indigenous peoples, colonialism lies at the root of the violence they experience today, as it has severed their ties to their cultures, negatively impacted their health, security and access to justice.<sup>196</sup> Colonization refers to all the state processes used to dispossess Indigenous Peoples of their lands and resources.<sup>197</sup> As a result, the particular harms to Indigenous women and gender-diverse people is a crisis that has been reinforced for centuries. According to the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), “the process of colonization has, in fact, created the conditions for the crisis of missing and murdered Indigenous women, girls and 2SLGBTQIA people that we are confronting today.”<sup>198</sup>

As a result of the myriad of harms to Indigenous communities flowing from colonialism, Indigenous populations are more likely to experience other concurrent risk factors in addition to IPV, including substance abuse and poverty, compromised mental health.<sup>199</sup> Indigenous people are more than twice as likely to report being victims of domestic violence than non-Indigenous people, and many instances of IPV likely go unreported.<sup>200</sup>

Limited access to social and health supports and services, and pervasive experiences of racism when accessing social, health and justice systems, prevent many survivors of IPV from seeking help. While Indigenous women and girls are more likely to be survivors and victims of violence, they experience distinct discrimination by various institutions, including police, the justice system, and child protective services. Further, many Indigenous peoples live in rural, remote, and northern communities, where barriers to accessing services are even higher. To seek assistance, some Indigenous women must leave their communities, families, and support networks for an extended time and may have to engage with services that are culturally insensitive and inappropriate.

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195 Ibid

196 Supra note 192 at 17.

197 Ibid

198 Supra note 192 at 17.

199 Supra note 191.

200 Native Women’s Association of Canada, “Fact Sheet: Violence Against Aboriginal Women” (2010) at 5, online (pdf): NWAC <<https://www.nwac.ca/browse/>>.



**Table III: RIA II risk factors**

<b>Category</b>	<b>Risk factors to be investigated</b>
<b>Type of abuse</b>	Verbal, psychological, coercive control, financial, physical, and sexual. Coercive control: Controlling behaviour, forcible confinement, intimidation and isolation, stalking, harassment calls, cyberstalking, video surveillance, and jealous behaviour.
<b>Relationship history</b>	Actual, pending, or abuser's perception of potential separation, escalation of abuse in severity and frequency.
<b>Perpetrator background</b>	Mental health concerns/diagnosis, use of medications and history of hospitalization, suicide threats and attempts, criminal charges and/or conviction order, breach of court orders and/or resistance to being arrested, history of violence against others (previous partner, acquaintances, strangers, pets ), employment conditions and history, access to weapons (use or threat to use), recent changes of life circumstances (loss of a family member, job loss, financial difficulties, immigration status, disability (medical condition), trauma due to conflict zone or war.
<b>Survivor</b>	Survivor's level of fear, expressed safety concerns, previous attempts to end the relationship, financial condition/employment, history of child abuse, mental health/addiction issues, access to resources, language barriers, support system (family and friends), housing issues metropolitan or rural areas – limitations and challenges, access to resources / support services in rural areas.
<b>Child(ren)</b>	Abuse against the child, the relationship between each parent and child(ren), emotional ties between each parent and child(ren), current living arrangements, willingness to encourage a close relationship between the child(ren) and other parent, parent's ability to care for the child(ren), parent's plan for the child's care and upbringing, current access arrangements, history of child(ren) abductions and/or threats, child(ren)'s developmental concerns, child(ren)'s emotional concerns, mental health diagnosis or treatment, child(ren)'s health concerns, and child(ren)'s behaviour concerns. Presence of a stepchild in the home.
<b>Systemic/ Institutional Factors</b>	Immigration status, racial identity, forced marriage, class, religion, trauma due to conflict zone and/or war, child protection involvement, government income assistance, criminal court involvement, civil court, economic status/ challenges, ability/ disability, gender identity, sexual orientation, systemic bias based on substance use, mental health issues and type of employment.
<b>Indigeneity Factors</b>	Woman identifies as an Indigenous, partner is /is not Indigenous, extended family, living on or off-reserve, matrimonial property on reserve, child protection involvement.

## RIA III: Risk Mitigation

At IPV RIA III, FLPs and survivors create a safety/action plan, which may include pursuing court orders, based on risk factors identified at IPV RIA I and II. Family Law Practitioners are to provide appropriate referral and or action plans base on the unique circumstances of survivor's situation. Identifying current safety risks is critical within the Family Court context as involvement in Family Court proceedings--particularly separation proceedings—can cause abuse to escalates.<sup>201</sup> There are many responses that FLPs can implement that are designed to assist survivors of IPV and their children.

Court orders such as civil restraining and protection orders may be effective IPV prevention and mitigation tools.<sup>202</sup> These orders can assist by reducing the severity and frequency of abuse and violence, deterring some perpetrators entirely with early intervention, and encourage the safety planning measures sought by victims and survivors in these cases.<sup>203</sup>

Another effective risk mitigation when potential harm to the victim is identifiable and targeted is safety planning.<sup>204</sup> The goal of safety planning is to prevent or minimize the impact of violence on the survivor. Women Against Violence Europe identified that safety planning involves dynamic and static security resources,<sup>205</sup> recognizing how social risk and the complexities of a survivors' risk factors can inform a safety plan.<sup>206</sup>

People who are targeted by domestic violence are not always aware of the extent of the threat of danger to themselves or their children, which is why it is particularly important to become familiar with indicators of risk and danger.<sup>207</sup> Safety planning should be an empowerment-based intervention focused on the needs of the survivor and their children<sup>208</sup> since they are often the best able to judge whether civil orders of protection will reduce or increase their level of risk or danger.<sup>209</sup> Pressuring survivors into seeking a civil protection order is not necessarily safe, and in these situations, intensive cooperation and planning amongst other resources might be most effective.<sup>210</sup> Further, some women, particularly those from marginalized communities, might fear that advocating for their wellbeing in Family Court could result in retaliatory behaviour from the perpetrator in which can potentially increase the risk of future harm.<sup>211</sup> Therefore, safety planning is fundamentally a collaborative effort and entails focusing on survivor choice and interventions that meet their complex needs in a way that is survivor-centric.<sup>212</sup>

Family Court can play an essential role in protecting survivors of violence, and safety planning should be a continuous process. Depending on the level of risk and danger, intensive collaboration among several services is required.<sup>213</sup>

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201 Zeoli et al, supra note 42 at 547.

202 Neilson 2017, supra note 5.

203 Ibid.

204 Women Against Violence Europe, "PROTECT – Identifying and Protecting High Risk Victims of Gender-Based Violence – an Overview" (2nd ed, Vienna 2011), online (pdf): < [http://files.wave-network.org/trainingmanuals/PROTECTI\\_Protecting\\_High\\_Risk\\_Victims\\_2011\\_English.pdf](http://files.wave-network.org/trainingmanuals/PROTECTI_Protecting_High_Risk_Victims_2011_English.pdf) > at 17.

205 Ibid.

206 Ibid.

207 Neilson 2017, supra note 5.

208 Amanda M Stylianou, "Family Court Survivor-Centered Practice: A Qualitative Study of Advocate-IPV Survivor Safety Planning Interactions" (2018) 34 Journal of Family Violence 245 at 246.

209 Neilson 2017, supra note 5.

210 Ibid.

211 Zeoli et al, supra note 42 at 556.

212 Stylianou Amanda, supra note 208 at 246.

213 Neilson 2017, supra note 5

## 9 Considerations when screening IPV and Risk

### Survivor's Level of fear

Stories and reports from victims of domestic violence are the most accurate sources of information about risk and future harm, largely because they are familiar with the perpetrator's behaviour patterns.<sup>214</sup> According to Neilson, a survivor's fear is "one of the most dependable predictors of continuing risk of physical violence."<sup>215</sup> When victims express safety concerns, lawyers and service providers must assess the level of risk and address necessary safety measures.<sup>216</sup>

### Barriers to disclose abuse

Survivors of IPV as part of their coping of trauma in many cases underestimate risk or do not share the seriousness of it,<sup>217</sup> this could be because of many factors that include fear of the abuser, fear of child protection services, upcoming court cross-examination,<sup>218</sup> or prior experience with the criminal system.<sup>219</sup> Risk assessment instruments can enhance survivor's awareness of the level of danger, and consequently, their engagement in safety planning and preventive measures to avoid future violence.<sup>220</sup>

### Survivor's trauma

There are a multitude of consequences associated with IPV. Mental health consequences can include Post-Traumatic Stress Disorder ("PTSD"), substance abuse, depression, and anxiety-related problems.<sup>221</sup> Survivors of IPV with PTSD show more significant levels of other mental health and psychological issues,<sup>222</sup> and rates of PTSD and complex PTSD are particularly high in cases of severe and/or repetitive IPV.<sup>223</sup>

The state of an IPV survivor's mental health can impact the information that they choose to share with service providers,<sup>224</sup> which may have negative impacts on a service provider's assessment of the survivor's credibility.<sup>225</sup> Fear of not being believed—compounded by feelings of embarrassment or shame, fear of threat or further violence, fear being reported to child protection services, and fear of re-traumatization—may prevent survivors of IPV who experience negative impacts on their mental health from disclosing abuse.<sup>226</sup>

Ongoing trauma and its impact on mental health may compromise women's ability to fully participate in family law proceedings. As a result, they may find hard to concentrate and understand legal terms and concepts and make important decisions regarding their family law claims.<sup>227</sup> In addition, trauma survivors many "either under-or-over identify risk of harm."<sup>228</sup> It is

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214 Neilson 2014, supra note 13 at 45; Domestic Violence Risk Assessment: Informing Safety Planning & Risk Management Brief, by M Campbell et al, cdhpi.ca (London, Ontario: Canadian Domestic Homicide Prevention Initiative, 2016) at 8.

215 Neilson 2014, supra note 13 at 37

216 Ibid, at 50.

217 Kropp 2004, supra note 77 at 685; Campbell et al, supra note 129 at 8.

218 Kropp 2004, supra note 77 at 685–686.

219 Neilson 2017, supra note 1 at 65.

220 Neilson 2014, supra note 13 at 12.

221 Mysore Narasimha Vrandha et al, "Barriers to Disclosure of Intimate Partner Violence among Female Patients Availing Services at Tertiary Care Psychiatric Hospitals: A Qualitative Study" (2018) 9:3 Journal of Neurosciences in Rural Practice 326 at 326 & 327.

222 Ibid at 181.

223 Neilson 2017, supra note 1.

224 Natalie Pill, Andrew Day & Helen Mildred, "Trauma responses to intimate partner violence: A review of current knowledge" (2017) 34 Aggression and Violent Behaviour 178 at 179.

225 Mysore Narasimha Vrandha et al, supra note 222 at 329.

226 Ibid at 328.

227 Cross et al, supra note 77 at 14.

228 Ibid.

thus crucial that FLP's have a broad understanding of the consequences of trauma on survivor's mental health and "to the subtle and wide-ranging influence of trauma exposure up on survivor coping and relational functioning"<sup>229</sup> in order to provide services appropriated to their needs.

### Rules of Professional Conduct

Different codes of ethics and professional rules govern professionals providing services to survivors in family court, including lawyers. This section of this manual focuses on the Ontario Rules of Professional Code of Conduct for lawyers only.

When working with a client who is experiencing IPV, lawyers need to carefully fulfill their duties under the Professional Rules to ensure they are protecting their clients' best interests. Clients experiencing IPV are vulnerable to continued abuse from their partner and, in some cases, inadequate protection by the justice system. It is essential that lawyers fearlessly advocate for clients experiencing IPV and fulfill the responsibilities outlined in the Rules of Professional Conduct.

Lawyers have a duty to meet a minimum standard of competence. Rule 3.1-2 provides that "[a] lawyer shall perform any legal services undertaken on a client's behalf to the standard of a competent lawyer."<sup>230</sup> The commentary goes on to state that "[c]ompetence involves more than an understanding of the legal principles; it involves an adequate knowledge of the practice and procedures by which such principles can be effectively applied."<sup>231</sup> The duty of competence requires that lawyers remain up-to-date on developments in their areas of law. In Family Law, lawyers must be aware of the unique risks facing clients experiencing IPV, and the challenges and barriers clients may face when accessing justice.

Lawyers also have a duty to honourably, yet fearlessly, advocate for their clients. According to Rule 5.1-1, "[w]hen acting as an advocate, a lawyer shall represent the client resolutely and honourably within the limits of the law while treating the tribunal with candour, fairness, courtesy, and respect."<sup>232</sup> The commentary elaborates on this duty, explaining that "[i]n adversarial proceedings, the lawyer has a duty to raise fearlessly every issue, advance every argument and ask every question, however distasteful, that the lawyer thinks will help the client's case and to endeavour to obtain for the client the benefit of every remedy and defence authorized by law."<sup>233</sup> The duty of fearless advocacy is a particularly pressing duty when serving clients experiencing IPV because the risks of harm that they face are so significant.

The duty of fearless advocacy applies to any children involved in the litigation. The commentary to Rule 5.1-1 goes on to state that "[i]n adversarial proceedings that will likely affect the health, welfare, or security of a child, a lawyer should advise the client to take into account the best interests of the child if this can be done without prejudicing the legitimate interests of the client."<sup>234</sup> This duty calls for explicit consideration of the best interests of the child when developing and carrying out any legal strategy. This is a nuanced and contextual analysis in cases of IPV when the best interests of the child may not be immediately clear. Lawyers should be careful to understand the risks that any children may face when their parent is experiencing IPV to ensure that they are fulfilling all of their professional duties.

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229 Shanti Kulkarni, "Intersectional Trauma-Informed Intimate Partner Violence (IPV) Services: Narrowing the Gap between IPV Service Delivery and Survivor Needs" (2019) 34:1 J Fam Violence N Y 55, online: <<http://search.proquest.com/socabs/docview/2108029651/abstract/C6140687EDA6452BPQ/2>> at 58.

230 Law Society of Ontario, Rules of Professional Conduct, Toronto: LSO, 2000, ch 3.1-2.

231 Ibid at ch 3.1-2, commentary (2).

232 Ibid at ch 5.1-1.

233 Ibid at ch 5.1-1, commentary (1).

234 Ibid at ch 5.1-1, commentary (4).

### Changes in the Divorce Act: The duty to consider all aspects of family violence

Family violence was not referenced in the prior version of the Divorce Act. Following the recent amendments, courts must explicitly consider the appropriateness of making an order that would require cooperation between the persons to whom the order would apply.<sup>235</sup> This requirement ensures that courts consider the potential impact on women's safety created by shared custody arrangements, which may require interaction with an abusive former partner.

When the new version of the Divorce Act comes into force, courts may prioritize the factors in section 16(3) when considering what order is in the "best interest" of the child based on the particular circumstances of the case.<sup>236</sup> Commentary from the Department of Justice on the changes to the Divorce Act states that in cases of family violence, courts would need to consider whether a person might be violent with a child, and whether they might use the relationship with the child to be violent with, or control, the other person.<sup>237</sup>

Under s 16(4) of the amended Divorce Act, courts must consider a variety of factors relating to family violence. Such factors include the nature and seriousness of the violence; any patterns of coercive and controlling behaviour towards any family member, whether the child is directly or indirectly exposed to family violence; and any compromise to the safety of the child or other family members.<sup>238</sup> Additionally, the changes reflect a greater understanding of how trauma might impact ongoing relationships with the perpetrator, and thereby the ability of parties to maintain a co-parenting relationship.<sup>239</sup> The Department of Justice highlights the impacts of family violence on children and the intergenerational and gendered consequences.<sup>240</sup> These changes to the Divorce Act are a positive step in Canadian legislation and will hopefully work better to protect children and adult survivors from family violence.

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<sup>235</sup> Supra note 52.

<sup>236</sup> Supra note 51.

<sup>237</sup> Ibid

<sup>238</sup> Supra note 52 at s 16(4).

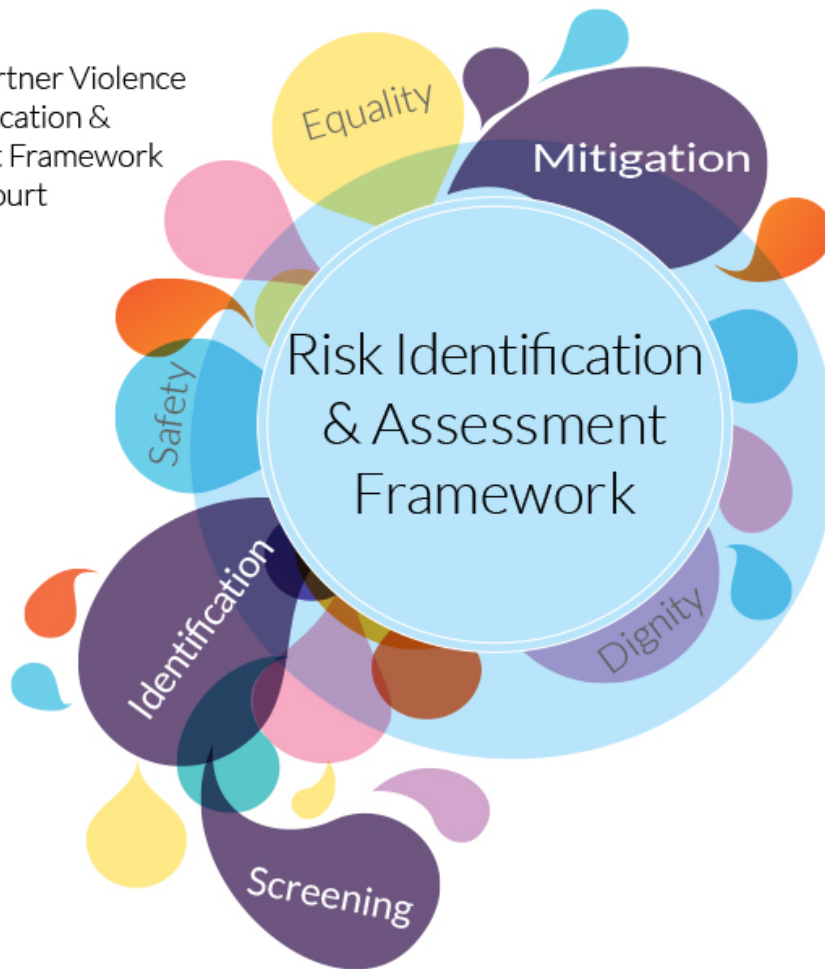
<sup>239</sup> Supra note 51 at 96.

<sup>240</sup> Ibid.





Intimate Partner Violence  
Risk Identification &  
Assessment Framework  
in Family Court



## Appendix: IPV RIA Worksheets

### Contents

- 1 RIA I: Risk Screening
- 2 RIA II: Risk identification
- 3 RIA III: Risk Mitigation



## Appendix I: IPV RIA Worksheets

Name:	DOB
Assessor:	Date

### RIA I: Risk Screening

RIA I consists of 13 yes-or-no questions based on risk factors validated by multiple research studies and Death Review Committees. A yes response to one or more questions should be considered as a red flag for potential future harm and/or lethality and requires the administration of RIA II and III for a more in-depth identification of other risks and a discussion of a safety /action plan.

Questions related to the history of abuse explore the timeline of the perpetrator's behaviour. Questions regarding the frequency of abusive behaviour, to be rated on a scale of 1-5, relate to the severity of abuse and the possibility of serious harm.

1 – never      2 – one time      3- once a month      4- every week      5- every day

Risk Factors	Yes	No	Recent	Past (more than 4 weeks)	Frequency of Behaviour (1-5)
1. Has your partner followed/ controlled your whereabouts to know precisely where you are? (stalking) (e.g., often showing up at your workplace or school, contacting you through a third party, contacting you with harassing phone calls and/or text messages, and using technological devices (GPS, phone apps, drones)					
2. Has your (ex) partner expressed controlling and/or jealous behaviour towards you? (e.g. controlling your daily activities, finances/ expenses, whereabouts, being jealous?)					
3. Has your (ex) partner isolated you from your family/friends?					
4. Has your (ex) partner ever hurt you (physically)?					
5. Has your (ex) partner assaulted you with a weapon? (Any object that can hurt you such as a gun, knife, baseball bat, etc.)? Do they have access to weapons?					
6. Has your (ex) partner tried to choke, suffocate or strangle you?					

7. Has your (ex) partner ever threatened and/or tried to take the child/ren away from you and/or move with the child/ren out of the province without your knowledge and/or consent?					
8. Has your (ex) partner ever hurt or threatened to hurt your child/ren?					
9. Has your (ex) partner threatened to hurt him/her self? (commit suicide)					
10. Has your (ex) partner disobeyed/ violated any court orders in the past? (e.g., restraining order, bail conditions, peace bond, etc.)					
11. Is there a recent or pending separation? If yes, have you noticed an escalation of your (ex) partner's abusive behaviours since separation?					
12. Has your (ex) partner threatened to kill you?					
13. Do you think your partner is capable of killing you and/or your children?					

Professional Judgement plan of action:

## RIA II: Risk identification

Name:	DOB
Assessor:	Date

Questions in RIA II are based on the seven categories of factors identified above that relate to the survivor's experience of violence. These questions help identify potentially harmful situations that can impact a survivor's safety. Certain questions from RIA I are repeated in RIA II to allow for a more in-depth assessment of abuse and its escalation over time. RIA II helps identify broader systemic barriers that may contribute to the survivor's level of risk of future harm, and includes a comment session where the assessor can provide more details of the survivor's responses to each category.

Type of Abuse				
Risk Factors	Yes	No	Escalation (past 3 months)	Comments
1. Has your (ex) partner emotionally /psychologically abused you? (by making condescending comments to you, calling you names, insulting you, putting you down and/or making you uncomfortable in front of others, constant yelling or criticism)				
2. Has your partner damaged your belongings and/or property?				
3. Has your (ex) partner isolated you from your family/friends?				
4. Has your (ex) partner expressed controlling and/or jealous behaviour towards you? (eg. controlling your daily activities, your finances/expenses, your whereabouts, jealousy)				
5. Has your partner followed/controlled your whereabouts to know precisely where you are? (stalking) (e.g., often showing up at your workplace or school, contacting you through a third party)?				
6. Has your (ex) partner ever cyber-stalked you (social media monitoring and tracking usage, sending excessive emails and/ or text messages)?				
7. Has your partner ever tried to monitor you using tracking devices such as GPS, cell phone, video monitoring, and others?				
8. Has your (ex) partner ever forcibly confined you or prevented you from leaving the house for work/school and/or contacting family/friends?				

9. Has your (ex) partner tried to choke, suffocate or strangle you?				
10. Has your (ex) partner threatened any other family member or friends?				
11. Has your (ex) partner injured, threatened, or killed a family pet?				
12. Has your (ex) partner taken money away from you and/or controlled your finances?				
13. Has your (ex) partner tried to prevent you to work and/or look for a job?				
14. Has your (ex) partner ever hurt you? (physically)				
15. Have you sought medical attention/treatment as a result of an injury caused by your (ex) partner?				
16. Has your (ex) partner assaulted you with a weapon? (Any object that can hurt you such as a gun, knife, baseball bat, etc.) ? Do they have access to weapons?				
17. Has your (ex) partner threatened to kill you?				
18. Has your (ex) partner ever pressure or forced you to engage in sexual activities against your will?				

Relationship History			
Risk Factor	Yes	No	Comments
19. Has there been a recent separation or previous attempts to separate from your partner?			
20. Have you noticed an increase in frequency or severity of violence, threats and/or stalking behaviour since separation?			



## Perpetrator Background

Risk Factor	Yes	No	Comments
21. Is your (ex) partner taking any prescribed medication for depression and/or anxiety? If no skip question 24.			
22. Has your (ex) partner taken the prescribed medication regularly?			
23. Has your (ex) partner been hospitalized due to a mental health or addiction issue?			
24. Does your (ex) partner use alcohol or drugs?			
25. Has your (ex) partner attempted or threatened to hurt himself/herself? (commit suicide)			
26. Is your (ex) partner currently employed? If yes, for how long? If no, proceed to the next question.			
27. How long has your (ex) partner been unemployed?			
28. Has your (ex) partner been criminally charged or convicted? If yes, please describe the nature of the offence and/or conviction.			
29. Has your (ex) partner ever resisted being arrested by the police?			
30. Has your (ex) partner violated /breached any court orders in the past?			
31. Are there any recent life change circumstances in your (ex) partner's life (Loss of a family member, job loss, financial difficulties, immigration problems, disability, medical condition)?			

## Survivor

Risk Factors	Yes	No	Comment
32. Do you believe that your (ex) partner can cause you severe harm or kill you?			
33. Do you believe that your (ex) partner can cause severe harm or kill your child/ren?			
34. Have you ever requested a protection order (e.g. a restraining order or a peace bond) against your (ex) partner? If yes, specify.			
35. Are you able to financially support you and your child/ren?			
36. Do you have family and/or friends who can provide support to you and your child/ren?			

Survivor			
37. Has your current geographical living situation (metropolitan or rural area) impacted your ability to access resources and/or seek safety measures for you and your child/ren? If yes, how?			
38. Do you have any physical and/or mental health condition that has impacted your ability to access resources and/or seek safety measures for you and your child/ren? If yes, how?			

Child			
Risk Factors	Yes	No	Comment
39. Has your (ex) partner ever hurt or threatened to hurt your child/ ren?			
40. Do you have any concerns about your (ex) partner's interactions with your child/ren?			
41. Is there any access schedule in place? If yes, specify.			
42. Has your (ex) partner ever threatened and/or tried to take the child/ren away from you and/or out of the jurisdiction?			
43. Has the child/ren expressed fear or concerns about seeing their father?			
44. Do you have any concerns related to your child/ren's development?			
45. Do you have any concerns related to your child/ren's mental health? If yes, is there a diagnosis or treatment in place?			
46. Does your child/ren have any health-related issue?			
47. Does your child/ren have any behaviour related issue?			

Child			
48. Who has been making the main decisions about the child/ren's life? E.g., Daycare/ school, health-related issues, recreational activities, etc. Please specify.			
49. Do you believe that you and your (ex) partner will be able to communicate and cooperate on issues regarding the upbringing of your child/ren? (co-parenting issues)			
50. Do you believe that your (ex) partner will encourage a close relationship between you and your child/ren?			
51. Do you have children from a previous relationship? If no, skip to question 54.			
52. Has your (ex) partner acted as a step-father? (assisting with the child(ren)'s upbringing?			
53. Do you have any concerns about your (ex) partner's interactions with your child/ren?			

Systemic/Institutional Factors			
Risk Factors	Yes	No	Comment
54. Has your immigration status impacted your ability to access resources and/or seek safety measures for you and your child/ren?			
55. Has your race impacted your ability to access resources and/or seek safety measures for you and your child/ren? If yes, how?			
56. Has your faith impacted your ability to access resources and/or seek safety measures for you and your child/ren?			
57. Has your gender identity and/or sexual orientation impacted your ability to access resources and/or seek safety measures for you and your child/ren?			
58. Is there a history of forced marriage within your and/or (ex) partner's families?			
59. Has your family forced you to get married? If yes, do you have any concerns about their reaction to your separation?			
60. Has your family or (ex) partner's family committed any violence against someone who did not follow their family norms?			
61. Have you suffered any type of abuse (emotional, verbal, physical, sexual) from any of your (ex) partner's extended family member(s)?			

Systemic/Institutional Factors			
62. Have you or your (ex) partner lived in a conflict zone/ war and/or refugee camp?			
63. Has a children's aid society been involved with your family? If yes, in what capacity? (e.g., support or child protection concerns/ investigation).			
64. Have you been involved with the criminal system? If yes, in what capacity?			
65. Have you been involved with the civil court? If yes, provide details.			

Indigeneity			
Risk Factors	Yes	No	Comments
66. Do you identify as an Indigenous person? If not, skip to question 70.			
67. Do you believe that your Indigenous status has impacted your ability to access resources and/or seek safety measures for you and your child/ren?			
68. Do you have any property on a reserve?			
69. Would you be interested in having support from an Indigenous agency/ support worker?			
70. Does your (ex) partner identify as an Indigenous person?			

## RIA III: Risk Mitigation

RIA III assists with the development of strategies, actions, and court orders that can enhance the safety of survivors and their children. It helps facilitate an action plan based on the risk factors identified on RIA I and II.

It is essential that Family Court stakeholders discuss all risk factors identified with the survivor and create, with the survivor's input, risk mitigation and safety/action plan strategies that can mitigate the risk of future harm. In some cases, it might be necessary to involve other service providers, such as Victim/Witness Assistance Program (V/WAP) workers, child protection workers, shelter workers, criminal court high-risk committees, etc.

It is essential that stakeholders request the survivor's consent to share serious safety concerns and risk mitigation plans with any service providers involved with the family.

For each risk factor identified in the seven main categories of RIA II, a safety/action plan and/or referral should be discussed and listed in the boxes below.

Types of Abuse		
Risk Factors Identified	Referral	Safety/Action Plan
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		

Relationship History		
Risk Factors Identified	Referral	Safety/Action Plan
1.		
2.		

Survivor		
Risk Factors Identified	Referral	Safety/Action Plan
1.		
2.		
3.		
4.		
5.		
6.		



Child		
Risk Factors Identified	Referral	Safety/Action Plan
1.		
2.		
3.		
4.		
5.		

Systemic/Institutional Factors		
Risk Factors Identified	Referral	Safety/Action Plan
1.		
2.		
3.		
4.		
5.		
6.		
7.		

Idigeneity Factors		
Risk Factors Identified	Referral	Safety/Action Plan
1.		
2.		
3.		
4.		
5.		

## Other Considerations

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