

# Risk Assessment in Context

by D. Kelly Weisberg

## WHAT IS RISK ASSESSMENT?

As a preliminary matter, it is helpful to address the question: What is risk assessment? The field of risk assessment measures characteristics of a person, his or her relationships, and his or her conduct to assess that person's level of dangerousness in order to make better decisions about a variety of issues. In the criminal justice system, risk assessment occurs in many stages of the criminal process including bail, sentencing, probation, and parole. Risk assessment also is considered in treatment decisions for offenders. Many different professionals (including police, prosecutors, judges, and service providers) are called upon to make informed decisions that assess an offender's level of dangerousness. These decisions are useful for two primary purposes: accountability (to gauge the most appropriate punishment) and protection (to safeguard the victim and the public from a recurrence of violence).

The law first relied on risk assessment in the context of mental health in the 1970s. In the first generation of research on risk assessment, studies focused on institutionalized individuals in psychiatric, forensic, and correctional settings to determine whether mental illness placed a patient or others in imminent risk of harm.<sup>1</sup> The impact of this research reverberated in the courts. For example, courts relied heavily on clinical assessment of risk in making decisions about involuntary commitment.<sup>2</sup> Such determinations were necessitated by state statutes that included the term "dangerousness to self or others" as the standard for involuntary hospitalization and by the 1974 **Tarasoff** case (**Tarasoff v. U.C. Regents**, 551 P.2d 334 (Cal. 1976)), upholding the liability of mental health professionals to warn individuals who were threatened with bodily harm by a patient.

By 1981, there was so much interest in risk assessment that psychology Professor John Monahan authored a famous article reviewing the burgeoning

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<sup>1</sup> Matthew T. Huss, *Forensic Psychology: Research, Clinical Practice, and Applications*, p.107 (Wiley, 2009).

<sup>2</sup> John Monahan *et al.*, *Rethinking Risk Assessment: The MacArthur Study of Mental Disorder and Violence*, p. 3 (Oxford Univ. Press, 2009).

literature.<sup>3</sup> His review concluded by noting the potential of risk assessment while, at the same time, expressing skepticism about the ability of forensic psychologists to make accurate predictions about future dangerousness.

Despite this skepticism, the U.S. Supreme Court gave its blessing to risk assessment in two cases in the 1980s. In **Barefoot v. Estelle**, 463 U.S. 880 (1983), the Supreme Court stated that, although expert testimony on dangerousness may not always be correct, it is admissible evidence and the adversarial process should evaluate it. The following year, in **Schall v. Martin**, 467 U.S. 263 (1984), the Supreme Court again gave its imprimatur to risk assessment when it upheld the practice of preventive detention for juvenile criminal suspects, reasoning that the practice is based on a prediction that the accused poses a serious risk of future criminal conduct.<sup>4</sup> Forensic psychologists relied on these judicial decisions to emphasize the reliability and validity of predictions of dangerousness. In response, risk assessment took root in a variety of other contexts.

Soon, risk assessment began to play an important role in the field of domestic violence. Some psychologists contended that risk assessment had particular utility and accuracy in cases of intimate partner violence.<sup>5</sup> As rationale for this view, they cited: (1) the base rates for repeated physical assaults by intimate partners are relatively high which serves to reduce the rate of false predictions; (2) evaluators who make risk assessments in partner assault cases often have access to the victim who is able to provide a rich source of information about the perpetrator; and (3) several risk factors exist which are uniquely related to dangerousness in the domestic violence context.<sup>6</sup>

Risk assessment became increasingly useful in the context of domestic violence in two overlapping areas: to determine the risk of an offender's recurring violence and also to determine the lethality of that violence. That is, researchers pointed out that some risk factors are tailored specifically to gauge the recurrence of intimate partner violence (IPV) and others are associated with one specific form of IPV: domestic homicide. This latter form of risk assessment is called "lethality assessment." Lethality assessment measures the risk that specific acts of domestic violence will culminate in a lethal or near-lethal assault.

Currently, risk assessments have become so pervasive in the field of domestic violence that they are used not only in the criminal justice system but also in civil cases. For example, assessment of dangerousness exists in protection order proceedings, child welfare proceedings, and child custody determinations.

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<sup>3</sup> John Monahan, *The Clinical Prediction of Violent Behavior* (U.S. Gov't Printing Office, DHSS, Pub. No. (ADM) 81-921 (1981).

<sup>4</sup> Preventive detention refers to the post-arrest, pre-conviction detention of alleged criminals based upon a judicial finding that the criminal is dangerous.

<sup>5</sup> Donald G. Dutton & P. Randall Kropp, "A Review of Domestic Violence Risk Instruments," 1(2) *Trauma, Violence, and Abuse* 171-181 (2000).

<sup>6</sup> *Id.*

## BENEFITS OF RISK ASSESSMENT

Risk assessment has significant benefits in the context of domestic violence. These include:

1. Enabling the criminal justice system to identify which offenders deserve higher bail, specific conditions of release, various forms of supervision, and particular sanctions;
2. Formulating appropriate treatment programs for perpetrators;
3. Assisting victims and service providers to develop relevant social services, including safety plans; and
4. Educating legal and social service personnel to obtain a better understanding of domestic violence (*e.g.*, the dangerousness of separation).<sup>7</sup>

## DEVELOPMENT OF INSTRUMENTS

Beginning in the 1990s, scholars became increasingly interested in the development of *instruments* to measure the risk of violence. Formerly, the traditional approach to violence risk assessment was a reliance on clinical judgment. Such assessments were based on “human judgment, judgment that is shaped by education and professional experience.”<sup>8</sup> However, such judgments were increasingly disparaged as being too subjective and difficult to replicate. In response, the 1990s witnessed the development of actuarial and structured approaches to risk assessment. In terms of mentally ill offenders, researchers diverted their efforts from improving clinicians’ judgment about dangerousness to developing evidence-based tools that would inform that clinician’s judgment.<sup>9</sup> Until that time, there were few tools that assessed the risk of future violence.

This growing emphasis on the development of instruments to measure risk was also reflected in the field of domestic violence. The next few decades witnessed efforts to develop theoretical risk assessment instruments regarding intimate partner assault. Beginning in the 1980s, social scientists identified several factors associated with partner violence. As considerable consensus emerged about the most important factors to consider in assessing the likelihood of recidivism among perpetrators, a few path-breaking scholars developed evidence-based tools that identified an offender’s potential for both recidivism and lethality. These evidence-based tools differed in terms of their purpose, target setting, target practitioners who administered them, and the sources of available information about risk (criminal record, existence of protection orders, information from the perpetrator and/or victim, etc.).

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<sup>7</sup> Battered Women Justice Project, Integrating Risk Assessment in a Coordinated Community Response. Available at <http://www.bwjp.org/our-work/topics/risk-assessment.html>.

<sup>8</sup> Huss, *supra* note 1, at 109.

<sup>9</sup> Monahan, *supra* note 2, at 8.

## DANGER ASSESSMENT

One of the first risk assessment instruments in the field of domestic violence was the Danger Assessment (DA), created by Jacquelyn Campbell, Ph.D., RN, FAAN, who is currently Professor and Anna D. Wolf Chair at Johns Hopkins University School of Nursing. Beginning in 1980, Dr. Campbell conducted advocacy policy work and research in the areas of violence against women and women's health. Today, Dr. Campbell has a long record of scholarship, serving as Principal Investigator on 11 major NIH, NIJ or CDC research grants addressing the subject of violence against women, risk assessment, and women's health.

The DA was initially developed in consultation with victims and professionals for collaborative use by health care personnel and victims of violence. Originally intended as a clinical instrument, the DA helps victims assess the likelihood of being killed to assist them in planning for their safety and to empower them toward decisions of self-care. The DA is the only intimate partner violence (IPV) risk assessment that is intended to predict lethality and that gathers data from only the victim of violence.

Although the DA is not the sole risk assessment instrument in the field of IPV, it is one of the most widely used instruments. It is used by a range of practitioners, including criminal justice professionals, health care providers, and social workers. Moreover, the DA is one of the few evidence-based measures of lethality in the context of IPV. As such, its predictive value rests on the fact that it has been scientifically validated in numerous studies conducted by Dr. Campbell, as well as independent evaluations.<sup>10</sup>

First developed in 1985, the DA was revised in 1988 following various studies by Dr. Campbell on its reliability and validity. In 2003, she again revised the DA to incorporate current research findings. In order to understand femicide risk, Dr. Campbell's research examined cases of IPV homicide and compared them to cases of attempted homicide and abuse. These comparisons allowed Dr. Campbell to determine which perpetrator characteristics and behaviors indicate an increased risk of homicide and to create a weighted scoring system that identifies women at various danger levels (variable, increased, severe, and extreme). A multi-city case-control study of over 600 femicide and attempted femicide cases found that the risk factors in the DA are significant predictors of intimate partner homicide.<sup>11</sup> When examining femicides, there is a 90% chance that a randomly selected victim of homicide would have a higher score on the DA than a randomly selected victim of assault.

In response to calls to disseminate the DA to a wider audience, Dr. Campbell created a website where the DA may be downloaded for free. Information

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<sup>10</sup> Messing, J.T. & Thaler, J. (2013). "The Average Predictive Validity of Intimate Partner Violence Risk Assessments, 28(7) *Journal of Interpersonal Violence* 1537-1558.

<sup>11</sup> Jacquelyn C. Campbell et al., "Risk Factors for Femicide in Abusive Relationships: Results From a Multistate Case Control Study," 93 *Am. J. Pub. Health* 1089, 1092 (2003).

on online or in-person training and certification, and on the weighted scoring system, can also be found at the Danger Assessment website ([www.danger-assessment.org](http://www.danger-assessment.org)). The DA is available to victims to help them identify their level of danger as well as to professionals who work with domestic violence survivors. Specifically, the DA is used by professionals in the criminal justice, health care, and advocacy fields to improve their responses to victims and perpetrators and for training and certification purposes to enhance the understanding of domestic violence.

The DA helps the victim of violence recall the severity and frequency of abuse over the past year by the use of a 12-month calendar, which can also serve as a consciousness raising tool. The DA then asks 20 “yes/no” questions about risk factors present in the abusive relationship. The DA is included herein on p. 18. The use of risk assessment is important as victims often underestimate their risk; Dr. Campbell found that fewer than half of the women who were eventually killed by their abusers accurately perceived their risk of death.

From its beginning as a risk assessment tool for use by health care providers, the use of the DA has spread enormously. Revisions of the DA have been created for women in abusive same-sex relationships and for immigrant women.<sup>12</sup> The DA has also been modified for use by first responders.<sup>13</sup> Today, the DA is widely used not only by social service providers to enhance their provision of services to victims but also by legal professionals in the civil and criminal law generally. It is used by law enforcement, in protection order proceedings, prosecutions, child welfare hearings, custody decision-making, criminal proceedings, batterers’ intervention treatment programs, expert witness work, and asylum cases.

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<sup>12</sup> Glass, N., Perrin, N., Hanson, G., Bloom, T., Gardner, E. and Campbell, J. C. (2008) ‘Risk for reassault in abusive female same-sex relationships’, *American Journal of Public Health*, 98(6), pp. 1021-7. Messing, J.T., Amanor-Boadu, Y., Cavanaugh, C.E., Glass, N., & Campbell, J.C. (2013). Culturally competent intimate partner violence risk assessment: Adapting the Danger Assessment for immigrant women. *Social Work Research*, 37(3), 263-275.

<sup>13</sup> Messing, J.T., Campbell, J., Wilson, J.S., Brown, S., & Patchell, B. (in press). The lethality screen: The predictive validity of an intimate partner violence risk assessment for use by first responders. *Journal of Interpersonal Violence*. Messing, J.T. & Campbell, J.C. (in press). Informing collaborative interventions: Intimate partner violence risk assessment for front line police officers. *Policing: A Journal of Policy & Practice* and is available in several different languages.

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## DANGER ASSESSMENT

Jacquelyn C. Campbell, Ph.D., R.N.  
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Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation.

Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones
4. Threat to use weapon; head injury, internal injury, permanent injury
5. Use of weapon; wounds from weapon

(If **any** of the descriptions for the higher number apply, use the higher number.)

Mark **Yes** or **No** for each of the following. ("He" refers to your husband, partner, ex-husband, ex-partner, or whoever is currently physically hurting you.)

- \_\_\_ 1. Has the physical violence increased in severity or frequency over the past year?
- \_\_\_ 2. Does he own a gun?
- \_\_\_ 3. Have you left him after living together during the past year?  
3a. (If have *never* lived with him, check here\_\_\_)
- \_\_\_ 4. Is he unemployed?
- \_\_\_ 5. Has he ever used a weapon against you or threatened you with a lethal weapon?  
(If yes, was the weapon a gun?\_\_\_)
- \_\_\_ 6. Does he threaten to kill you?
- \_\_\_ 7. Has he avoided being arrested for domestic violence?
- \_\_\_ 8. Do you have a child that is not his?
- \_\_\_ 9. Has he ever forced you to have sex when you did not wish to do so?
- \_\_\_ 10. Does he ever try to choke you?
- \_\_\_ 11. Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, "meth", speed, angel dust, cocaine, "crack", street drugs or mixtures.
- \_\_\_ 12. Is he an alcoholic or problem drinker?
- \_\_\_ 13. Does he control most or all of your daily activities? For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car? (If he tries, but you do not let him, check here: \_\_\_)
- \_\_\_ 14. Is he violently and constantly jealous of you? (For instance, does he say "If I can't have you, no one can.")
- \_\_\_ 15. Have you ever been beaten by him while you were pregnant? (If you have never been pregnant by him, check here: \_\_\_)
- \_\_\_ 16. Has he ever threatened or tried to commit suicide?
- \_\_\_ 17. Does he threaten to harm your children?
- \_\_\_ 18. Do you believe he is capable of killing you?
- \_\_\_ 19. Does he follow or spy on you, leave threatening notes or messages, destroy your property, or call you when you don't want him to?
- \_\_\_ 20. Have you ever threatened or tried to commit suicide?
- \_\_\_ Total "Yes" Answers

**Thank you. Please talk to your nurse, advocate or counselor about what the Danger Assessment means in terms of your situation.**



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