Determining the Predominant Aggressor and Gauging Lethality

An overview of the Lethality Assessment Program-Maryland Model.

Thinking outside of the box and quick tips for making the PA determination.

Keeping your investigation Victim Centered and Offender focused.

Victim Demeanor/Behavior.

The LAP in court.

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Lethality Assessment Program (LAP)

As developed by the Maryland Network Against Domestic Violence

Ashley Manuel
Statewide Program Coordinator

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What is the Lethality Assessment Program Maryland Model (LAP-MM)?

Founded in 2005 by the Maryland Network Against Domestic Violence, the Lethality Assessment Program—Maryland Model is an innovative, multi-pronged intervention designed to reduce domestic violence homicides and injuries. Developed as a user-friendly tool for coordinated efforts, the LAP-MM was created in collaboration with Dr. Jacquelyn Campbell, a leading expert in domestic violence, along with a committee of advocates and law enforcement professionals.

The goal of the LAP-MM is to identify survivors of intimate partner violence who ARE AT THE GREATEST RISK OF BEING KILLED AND connect them to services IMMEDIATELY.

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Intimate Partner Violence

- Definition

- A pattern of abusive behavior in any relationship that one partner uses to gain or maintain power and control over another intimate partner. – Office on Violence Against Women (OVW).

- IPV Includes

- Physical violence, sexual violence, stalking, and psychological aggression (including coercive tactics) by a current or former intimate partner (i.e., spouse, boyfriend/girlfriend, dating partner, or on-going sexual partner). – Center for Disease Control (CDC).

The Prevalence of IPV

1 in 5 homicide victims are killed by an intimate partner.[5]

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Lethality Assessment Program Maryland Model

- 11-question evidence-based assessment.
- Evaluates survivors for high-risk indicators of lethality in intimate partner violence.
- Serves as an educational tool, fostering awareness of the risk of homicide in an intimate partner relationship
- If survivors do not screen as High-Danger, they are still offered resources and informed about the lethality indicators.

Can we proactively identify those more at risk of being killed by an intimate partner?

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Dr. Jacquelyn Campbell's Studies

- **Were conducted in 11 cities across the U.S- some cities were urban, others rural.**
- **Reviewed cases diverse in race, ethnicity, age, and**
- **socioeconomic status.**

- The Data:

- **Informed the creation of the "Danger Assessment"- a longer questionnaire used in clinical settings to assess lethality- the Lethality Screen is the field instrument version of the Danger Assessment.**

Predictable

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For 28-33% of victims, the homicide, or attempted homicide, was the first known act of physical violence.[7]

For about 1/3 of victims, the homicide, or attempted homicide, was the first act of violence.[7]

83% of near-homicide victims, regardless of prior assaults by their abusers, reported instances of jealous, controlling, and/or stalking behavior

Preventable

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The LAP foundational research identified opportunities in which first responders came into contact with survivors and could encourage them to seek domestic violence services.

This reinforced the idea of creating a Referral Protocol to ensure that victims/survivors were aware of their high danger situation and could be directly connected to the available resources for help.

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According to researchers like Jane Monckton Smith, there is an identifiable pattern that leads up to intimate partner homicide. Monckton developed the following homicide timeline:

https://vimeo.com/891114751?fl=pl&fe=sh

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How Does it Work?

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At the end of an intimate partner violence incident, a first responder administers the “Lethality Screen.” The Lethality Screen is an 11-item questionnaire that determines the level of risk of being killed by an intimate partner.

The Lethality screen has three content areas necessary for assessing and tracking victims/survivors screened.

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Area 1- Top of the Lethality Screen

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This area collects information about the responding officer including badge number and department or precinct. This area also includes date and time of the call. The information allows the DSVP to track victim/survivors who go in for services and to credit the agency for their part in that effort.

Officer:	Date:	Time: am/pm
Badge #:	Department/Precinct:	
☐ Check here if victim declined to be screened		
☐ Advised victim of discoverability of the screen		
☐ Check here if the officer could not administer the screen		

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This section consists of 11 questions that evaluate the survivor/victim's danger of being killed by their intimate partner

First responders should only move to this section if:

- The survivor/victim has agreed to complete the LAP screen
- The first responder believes a violent act occurred
- There is a significant concern for the safety of the survivor/victim especially after they leave the incident
- First responders were previously called to this location.

A "Yes" response to any of Questions #1-3 is an automatic High-Danger assessment
1. Have they ever used a weapon against you or threatened you with a weapon?
2. Do you think they might try to kill you?
3. Have they ever tried to choke/strangle you?
"Yes" responses to at least four of Questions #4-11 is an automatic High-Danger Ass
4. Have they threatened to kill you or your children?
5. Do they have a gun, or can they easily get one?
6. Are they violently or constantly jealous or do they control most of your daily activities?
7. Have you left them or separated after living together or being married?
8. Are they unemployed?
9. Have they ever tried to kill themselves?
10. Do you have a child/children that they know are not theirs?
11. Do they follow or spy on you or leave threatening messages?

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Area 3- Scoring

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This is the area where the first responder determines if the victim/survivor is high danger. This determination is based on responses from area 2. First responders have the following options:

- High-Danger based on the score
- High-Danger based on officer belief
- The victim is not assessed as High-Danger based on the score

Is there anything else that worries you about your safety? (If "yes") What worries you?			
A first responder may make a High-Danger Assessment if the first responder believes the victim is in a potentially lethal (imminent danger of IPH) situation.			
Check one:	☐ Victim is High-Danger based on score		
	☐ Victim is High-Danger based on officer belief		
	☐ Victim is not assessed as High-Danger		
If victim is High-Danger, did officer make a call to the hotline?		☐ Yes	☐ No
Did the victim speak with the hotline advocate?		☐ Yes	☐ No

When to initiate the LAP:

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At the end of the call

Only in cases of intimate partner relationships

When you believe there is a manifestation of danger

Communicating the Results

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Inform survivors immediately of the Lethality Screen outcome.

High Danger Result:

Inform the survivor of the result and reiterate that this is very dangerous and that similar situations have resulted in serious injury.

High-Danger Based on First Responder's Belief:

First responder can assess the survivor as high danger based on their belief, even if the survivor did not screen in as high danger.

Non-High Danger:

Even if assessed as non-high danger, offer resources and explain lethality indicators as an educational tool.

When to Initiate the Referral Protocol

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The first responder, will initiate protocol by calling the hotline when:

Call the hotline if the victim/survivor answers:

"YES" to Questions #1-3
OR
"NO" to Questions #1-3
BUT
"YES" to at least four of Questions #4-11.

Call the hotline if the victim/survivor answers:

"NO" to all Questions,
OR
"YES" to no more than 3 of Questions #4-11
AND
the first responder believes it is appropriate to call.

Reschedule the hotline call if victim/survivor "does not answer" (DNA) the screen because they are in
1) need for immediate medical attention,
2) the scene is not safe,
or
3) the victim/survivor is incoherent and/or unable to respond.

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Quick Tips:

Identifying the Predominant Aggressor within the scope of LAP

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“Every year, 3-4 million women in the U.S. are abused and 1,500-1,600 are killed by their abusers. One challenge, for first responders to a domestic disturbance where both parties are injured, is identifying the predominant aggressor. Police and prosecutors must also be able to determine the level of danger facing a victim. Several factors are associated with an increased risk of homicide in domestic violence relationships. While we cannot predict what will happen in a particular case, danger assessments can help determine the risk that a victim faces, enabling us to better prioritize our efforts and support the victim.” –International Association of Chiefs and Aequitas

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Virginia Predominant/Dominant Aggressor Law

B. A law-enforcement officer having probable cause to believe that a violation of § 18.2-57.2 or 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe, based on the **totality of the circumstances**, was the predominant physical aggressor **unless there are special circumstances which would dictate a course of action other than an arrest.** The standards for determining who is the predominant physical aggressor shall be based on the following **considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household members, (iii) prior complaints of family abuse by the allegedly abusing person involving the family or household members,** (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

C. A law-enforcement officer having probable cause to believe that a violation of § 18.2-60.4 has occurred that involves physical aggression shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of the person to whom the protective order was issued and the person's family and household members, (iii) prior acts of violence, force, or threat, as defined in § 19.2-152.7:1, by the person against whom the protective order was issued against the person protected by the order or the protected person's family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

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Totality of the Circumstances

The totality of circumstances test is used to determine probable cause to justify an arrest or search.

Totality of the Circumstances= Multiple factors.

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Course of Conduct and what it looks like in IPV relationships.

- Course of conduct means “on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member. Va. Code § 18.2-60.3.
  - Yes, that specific code section is talking about Stalking and according to our lethality screen, stalking is a risk factor for lethality! Yet often, there is no “bodily evidence” of this type of crime. All you have are the actions/behaviors from one individual onto another individual that places the recipient in fear…feeling threatened. This is how it works in IPV as well. Throughout this relationship one partner has said something, gestured something, alluded to something along and along that made their partner feel they were in danger! Emotional, Psychological and verbal abuse is the conduct directed at another person with the intent to place, the other person in reasonable fear of death, sexual assault or bodily injury to themselves or their children, pets etc.…

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Scenario

- Sgt. Smith receives a call for service regarding damaged property. He arrives and the Crime Victim does not want to press charges and only wants to ensure a report has been made, showing that this damage occurred. The property was destroyed by the Victim's Intimate Partner. The Victim was not harmed physically or verbally during this incident. Although this is the first time Law Enforcement has been called to this residence, there is something about the crime Victims hesitancy to press charges and the way she describes how this incident happened, that makes Sgt. Smith think there is more to their partner's behavior. Can Sgt. Smith initiate the LAP protocol on this call for damaged property? Why or why not?

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Outcome

Sgt. Smith's gut instincts tell him there could be more going on here than just damaged property. So, what does he do?

- **1. He checks RMS and sees that the IP has a history of A&B in previous relationships; unbenowing to the current partner. (course of conduct)**
- **2. He explains his concerns to the Crime Victim and would like to ask some questions to gauge their risk of serious injury/lethality.**
- **He initiates the LAP protocol, and the Crime Victim screens in High Danger.**
- **He places the call to the local DV provider who can now provide on-going services to this Victim.**

***This was a real call for service I was contacted about on a large college campus. The damaged property was a laptop that had been smashed into pieces in a flash of anger by the IP. The Crime Victim did not allege any physical or verbal violence but was obviously scared which deterred her from pressing charges. Sgt. Smith took this opportunity to dig deeper into the totality of the circumstances, although not leading to an arrest, He was able to see this incident more clearly and get the Victim connected to resources that could prove to be life-saving in the future.**

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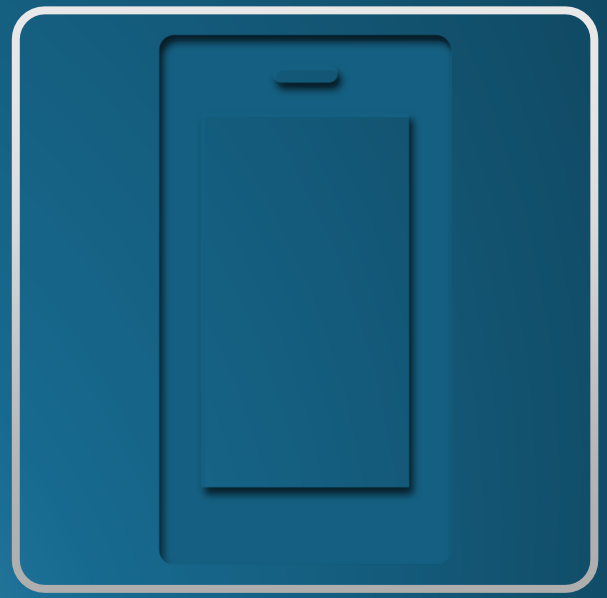
Quick Tips

- When taking in the totality of the circumstances try to think historically and outside of the box:
  - How many calls for service have we received for this party/residence? What were those calls for?
  - In those calls for service who has been the partner using their power to dominate/intimidate/threaten/control the other? (prior complaints of ~~family~~ abuse by the allegedly abusing person involving the ~~family or household members~~ Intimate Partner.
  - If you have the time, check RMS to see if there is a history of IPV/DV with this individual. (safe scene, two LEO's on scene etc.)
  - Be sure to investigate a Victims report of choking/strangulation further. This can keep both you and the Victim safe. (Big lethality indicator).



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i. Who was the first aggressor?

Thinking outside of the box!

A case out of Maryland is a perfect example of this from a Victim's point of view. A husband would often turn the ring on his finger as a sign that he was going to hit his wife. Turning the ring meant she would receive the flat side instead of the characterized side, as to minimize the outward damage that was caused. After many instances of this happening, one evening he turned his ring, and she knew what was about to happen. Out of fear, she struck him first. From her perspective, by striking him first she was preemptively defending herself from what she knew was coming, based on her husband's course of conduct pattern.

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"Determine who the bully is, and you will find your predominant aggressor."

-Dave Thomas: (Retired Corporal)Just prior to joining the staff of the IACP, Mr. Thomas served as the Senior Advisor, Highly Qualified Expert Law Enforcement, SES, to the U.S. Air Force Sexual Assault Prevention and Response Office out of the Pentagon.

Keeping Your Investigation Victim Centered & What IPV Trauma Looks Like On-Scene

Sharon Reed

Victim Service Program Specialist, VA Dept. of Criminal Justice Services

Predominate Aggressor

Gather **all** relevant information

Must make determination by **totality of the circumstances**

Things to consider when making determination:

- Who was first aggressor?
- Protection of the health and safety of family & household members
- Severity of injuries inflicted on persons involved in the incident

Whether injuries were inflicted in self defense

- Scratches on one person's body
- Bite marks on arm or chest of one party
- Defensive wounds on upper arms, hands, or face of one party
- Use of unusual "weapon", such as a frying pan, etc..by one party
- Injuries that do no fit the stories told by one or both of the parties

Witness Statements

Other family present or in home

Neighbors

Other Observations

Unsung Heros

Dispatchers

- https://youtu.be/JrKfB9MSdsM
  - History of calls to the home
  - On line with victim
  - Up to date info as you arrive
  - Pizza Call - 911 Lone Star

EMS/Fire Responders

- Statements by defendant if injured/treated
- Statements by victim

What is documented on the call sheet?

- When encountering someone who appears to be experiencing symptoms of trauma, law enforcement must first address the victim's safety and security needs by ensuring his or her physical concerns are acknowledged and addressed.

Signs of Trauma

• Nausea, flashbacks, trembling, memory gaps, fear, and anger. These can lead to behaviors that police may misinterpret as not cooperating, appearing adversarial, or behaving in an aggressive manner.

• Hypervigilance or constant state of arousal. This may appear as the person being hostile, particularly when they are feeling threatened.

• Disengaging, "tuning out," They may feel numb and show no outward signs of distress, which police can interpret as suggesting that there is little or no trauma because the person is not acting out.

Victim Demeanor:

The International Association of Chiefs of Police (IACP) has identified several behaviors or emotions Officers may see when responding to domestic violence:

- **Passivity:** Victims may be quiet and reserved or appear reluctant to answer questions.
- **Denial:** Victims may refuse to acknowledge that the abusive incident occurred, minimize the level of abuse, recant the account, deny allegations, reject further investigation, or defend the suspect. Because domestic violence is predicated on some sort of intimate bond, there can be a reaction to protect a perpetrator who may be someone they care about, are related to, and love.
- **Anger:** Victims may appear upset with the suspect and with law enforcement if officers have repeatedly been to the residence for prior reports of abuse, but no arrests have been made. Victims may also show anger if they feel that law enforcement is not providing sufficient protection from the suspect, even if an arrest is made, and may verbally or physically attack officers.
- **Laughing:** Victims may laugh or joke. This might feel uncomfortable or be misconstrued as a sign that nothing is wrong, but this can be a normal trauma response.
- **Lack of emotion:** Victims may have a flat affect and not show any emotion. This is a normal response to trauma and should not be taken as an indication that the victim did not experience trauma.
- **Fear:** Victims may be afraid of retaliation for law enforcement being called, or they may be scared that officers will not take action to stop the violence. Victims may fear that officers will not believe them or that authorities will take their children away, or they may fear law enforcement because of past experiences or cultural norms.

Trauma Informed Care What does it look like?

Language & Communication:

- Non Judgemental & Empathetic Language
- Avoid making assumptions

Active Listening:

- Listen without interrupting
- Validate their experience

Provide Choices:

- Choosing where to talk
- Choosing to stand or sit

De-Escalation Techniques:

- Talking softer
- Separation

How does Trauma-Informed Practice Help Make Police Work Easier?

1.

You are more likely to get cooperation from the Survivor .

2.

You are less likely to escalate the Survivor.

3.

You are less likely to add trauma to someone who may already have experienced it, leading to better future outcomes with the same Survivor.

The Right Officer

https://youtu.be/-hCdxU00c3s

Lethality Assessment In The Courtroom

Honorable H. Lee Chitwood
Judge, Pulaski County J&DR Court