



Chapter 9

Probation and Parole

MADISON COUNTY DEPARTMENT OF CORRECTIONS PROBATION AND PAROLE IN DOMESTIC VIOLENCE-RELATED OFFENSES

FRAMEWORK

While initial responders play a critical role in domestic violence cases, probation/parole officers are positioned to hold offenders accountable and restrict their access to victims¹; constrain the offender's ongoing coercion, intimidation and violence; offer opportunities to change abusive behavior; and upon re-offense, make visible to the system a defendant's level of violence and risk to victims and the public.

Research is clear on the deterrent effects of close probation supervision of domestic violence probationers coupled with swift and sure responses to all violations: such a response can reduce future abuse. Domestic violence is a complex crime. Each case encompasses very different acts of violence occurring in very different circumstances for very different reasons, so a single approach to deterrence will not work.² The term "Domestic Violence," in the context of Kentucky's criminal justice system, includes various incidents between intimate partners, family and household members. This practice guide is mainly meant to assist probation/parole officers in the handling of a certain type of domestic violence – **battering**.

Battering is a form of domestic violence among intimate partners that includes: (1) the patterned use of abusive tactics, including physical, sexual, and emotional violence and intimidation; and (2) the targeting of an intimate partner which results in an ongoing state of coercion and control (see the **Power & Control Wheel on p. 27**). This type of domestic violence is the manifestation of learned behavior patterns in society that supports – in both overt and covert ways – general violence and violence against women in particular.³ Most domestic violence arrests involve cases of battering, but many do not.

Domestic violence that is not an ongoing pattern of abuse is embedded in different social circumstances and requires a different intervention. Some offenders are victims of battering that used **resistive violence** against their abuser. The individual acts of resistive violence and battering may look the same under the law, but bear little resemblance to each other in context (see **Recognizing when an Offender is also a Victim on p. 19**). Additionally, some forms of mental illness, drug or alcohol addiction, or brain injury result in incidents classified as domestic violence cases. These offenders may pose significant risk of future harm to someone, but for very different reasons than a case of coercive and patterned abuse against an intimate partner.⁴

The supervising probation/parole officer must learn about the history of violence and continuously manage risk in order to supervise domestic violence offenders. This task is fourfold: (1) work with the offender to help change the behaviors that have resulted in a conviction; (2) stay aware of signs that the abuse and violence might be reoccurring; (3) find the right (and available) kinds of

rehabilitation programs; and (4) act swiftly each time the offender pushes against the controls over his or her abusive behaviors.

The criminal justice system processes events, i.e., particular crimes that occur at a particular time. Not until sentencing and probation does the system begin to look at the context of that crime and attempt to remedy both the event and the circumstances that surround it. At this time community agencies are also drawn into the process of change. The interagency approach to the case suddenly expands as programs specializing in chemical dependency, battering, victim support, community education, and economic assistance come together to prevent further abuse. The probation/parole officer is the linchpin that connects these possibilities for change together in an accessible and meaningful way for the offender.

The *Blueprint* collective interagency approach is designed to stop violence against the victim, both the current victim and future ones who can so quickly fill those shoes if the abusive behavior continues. Engaging with the victim helps probation/parole officers understand what makes the ongoing situation dangerous and what particular signs might signal reoccurring violence.⁵ If the victim is linked to an advocacy program that is also working cooperatively with the Department, it is far more likely that steps can be taken to disrupt escalating violence.⁶

The supervising probation/parole officer is the only practitioner in the system that develops an ongoing relationship with the offender. As such, the probation/parole officer is best-positioned to relay and reinforce the messages intended by the overall response: ***change is possible, being accountable is the first step toward change, continued abuse will not be tolerated, and there is a network of help available to support an offender's efforts to change abusive behavior.***⁷

Criminal justice agencies partnering in a *Blueprint for Safety*, including probation and parole, should use every opportunity to: (1) paint as accurate a picture as possible of the full extent and context of the violence, intimidation and control; (2) be clear to the victim, family members, and the offender that the *offender* is responsible for this destructive and unacceptable violence; and (3) challenge assumptions that minimize or fail to acknowledge the full extent of the damaging effects of the violence and coercion, including the potential for lethality.⁸

PRACTICE GUIDE

The following best practices, tools, and resources are designed to assist probation and parole officers in their supervision of domestic violence offenders. This Practice Guide is intended to supplement the Department's general policies and procedures, providing direction specific to domestic violence cases. Two of the primary ways supervising domestic cases differs from general supervision are 1) the cases require continuous assessment of whether the offender poses risk or danger to current or future victims and 2) the victim is a known source of information about the offender's behavior.

The best practices and tools in this Practice Guide reflect research on over thirty years of criminal legal system responses to domestic violence. Sources used to develop this Practice Guide include the model *Blueprint for Safety: An Interagency Response to Domestic Violence Crimes* (Praxis International, Inc. and the City of Saint Paul, Minnesota, 2010) and the American Probation and Parole Association *Community Corrections Response to Domestic Violence: Guidelines for Practice* (May 2009).

PRESENTENCE INVESTIGATIONS IN FELONY DOMESTIC VIOLENCE CASES

A judge in Circuit Court may order a Pre-Sentence Investigation (PSI) in a felony domestic violence case. See the **Felony PSI Checklist (p. 8)**.

1. Obtain victim input regarding presentence investigation (PSI) and conditions of probation, including imposition of stay away order, restitution and response to violations.
2. Conduct presentence investigations that search all available records and capture complete information about the current offense and defendant's past use of violence.
3. Conduct a risk assessment and incorporate into the PSI report: history, context, severity, risk and danger, with particular attention to cases involving an offender who also appears to be victim (i.e., where the offender appears to have been abused in the past by the identified victim in the case).
4. Make PSI recommendations based on context, severity, risk and danger.

SUPERVISING PROBATIONERS OR PAROLEES WITH A FELONY DOMESTIC VIOLENCE CONVICTION

When an offender is placed on probation or is released on parole after being convicted of a domestic violence felony, the probation/parole officer will utilize this Practice Guide, in conducting the intake, re-evaluating the PSI risk assessment at 6 months and then yearly, assessing for ongoing risk, framing and executing supervision, and responding to violations. See the **Domestic Violence Supervision Checklist (p. 6)**, **Domestic Violence Violations Checklist (p. 7)**, and referenced Guides.

1. Communicate in a person's first language and in ways that address limited English proficiency and literacy.
2. Meet promptly with offender to review all probation conditions and obtain signed releases.
3. Establish and provide supervision that is appropriate to risk and danger and consistent in holding offender accountable for his actions. Identify high risk offenders and place them under supervision consistent with their risk assessment.
4. When possible provide notification to victims of terms and conditions of probation. Seek information from victims about their concerns during supervision, including how to report violations in a manner that does not increase risk to victim.
5. Make program referrals, including appropriate domestic violence treatment, which fits risk and danger.
6. Coordinate and share information with treatment programs and monitor compliance with all probation conditions.
7. Provide immediate response to probation violations, differentiated based on risk posed to the victim and the community.
8. Establish procedures to hear probation violations based on new criminal activity before the new charge is resolved, if the activity is associated with increased risk to victim.

SUPERVISING PROBATIONERS OR PAROLEES WITH A NON-DOMESTIC VIOLENCE FELONY CONVICTION WITH A DOMESTIC VIOLENCE VIOLATION

An offender already under supervision by DOC, for a non-domestic conviction, may violate probation or parole by committing a domestic violence crime. If the court or board releases the offender after the offender has been arrested for this violation, this Guide will assist with adjusting the supervision of the offender to address the dynamics of domestic violence. See the **Domestic Violence Violations Checklist (p. 7)**, the **Domestic Violence Supervision Checklist (p. 6)** and referenced Guides.

1. Provide immediate response to probation violations, differentiated based on risk posed to the victim and the community.
2. Establish procedures to hear probation violations based on new criminal activity before the new charge is resolved, if the activity is associated with increased risk to victim.

SUPERVISING OFFENDERS WHO ARE ALSO VICTIMS

Offenders under supervision, regardless of their conviction, may be recognized as victims of battering or abuse. The probation/parole officer will use this Practice Guide to understand the dynamics of domestic violence in the offender's life, including whether or not the offender may be at risk of experiencing future violence or of using resistive violence against her/his abuser. The Practice Guide also includes referral numbers the offender may need in the context of being a victim. See the **Recognizing when an Offender is also a Victim Guide (p. 19)** and the **Victim Resource Guide (p. 24)**.

1. If preparing a PSI on an offender who the officer believes is being abused or battered by the victim in the case, Incorporate history, context, severity, risk and danger in the PSI report.
2. Ensure that supervision of offenders, who are also victims of battering, does not make the offender more vulnerable to further violence.

INTERAGENCY MONITORING

1. The Department of Corrections Probation and Parole in Madison County, Kentucky, shall ensure that a representative participates in ongoing interagency *Blueprint* monitoring, evaluation, and maintenance.

TOOLS, GUIDES AND RESOURCES

The Checklists referenced above are designed to assist probation/parole officers in supervising domestic violence offenders. The various guides and tools referenced in the checklists are also included below and should be utilized to the greatest extent that State laws and agency resources permit.

DOMESTIC VIOLENCE SUPERVISION CHECKLIST

- Avoid reinforcing the offender's sense of entitlement that underlies his battering tactics and convey a strong stance against all forms of abuse whenever interacting with the offender.
- Communicate in a person's first language and in ways that address limited English proficiency and literacy.
- Conduct a prompt intake with offender to review all probation/parole conditions and obtain signed releases.
 - Utilize the Understanding Abuse Guide to engage the offender in a discussion to ensure the offender understands the full scope of abusive behavior he must refrain from.
 - When there is no stay away order in place, but the officer believes a no-abuse order should be in place, the officer should request the governing authority order a protective order.
 - Inform the offender that he or she may not own or possess a dangerous weapon while under supervision and develop a plan for weapon forfeiture.
 - Inform the offender at the beginning of supervision and continue to remind the offender that you may speak with the victim as a standard part of the supervision process.
- Conduct a house visit after the initial intake with the offender. If the victim is in the home during the house visit, communicate with the victim according to the Victims as Collateral Contacts Guide.
- Establish and provide supervision that is appropriate to risk and danger and that is consistent in holding offender accountable for his actions.
 - 60 days after the initial intake with the offender, conduct the risk/needs assessment.
 - Review the Guide for Evaluating Risk and Danger for additional risk factors that may increase the level of supervision.
 - Identify high risk offenders and place them under supervision at a level consistent with their risk factors.
 - Consider whether or not an offender is also a victim of ongoing battering and abuse. Ensure supervision does not make an offender who is a victim vulnerable to further abuse according to the Recognizing when an Offender is also a Victim Guide.
 - Request that the governing authority orders special conditions, as listed in the Probation/Parole Special Conditions Guide, where appropriate.
- Refer offender for evaluation and intake at domestic violence intervention programs (see Domestic Violence Treatment Programs Guide) and other necessary treatment programs.
 - Make appropriate program referrals that addresses the risk and danger factors in the case.
 - Coordinate management of the offender with treatment programs, obtaining information pertinent to supervision from each treatment program.
- Throughout supervision, monitor compliance with all probation/parole conditions and continuously assess for risk and danger, utilizing the Guide for Evaluating Risk and Danger.
 - In cases where there is any degree of ongoing contact between the offender and victim (continuing relationship, shared children, new victim, etc.), and as time and resources permit, obtain information from the victim that is pertinent to supervising the offender, in accordance with the Victims as Collateral Contacts Guide and provide information in the Victim Resource Guide.

When possible:

- Check to see if the offender has requested a protective order to see if the offender is seeking reprisal against the victim or other intimate partner that may be a potential victim.
- If the offender has children, check to see if custody disputes or child support enforcement orders are facilitating opportunities for continued abuse against the same or a different victim.
- Check to see if the offender is involved in any other civil court action, such as divorce proceedings, that may facilitate opportunities for continued abuse or trigger abusive actions.

DOMESTIC VIOLENCE VIOLATIONS CHECKLIST

- When a victim calls to report a violation:
 - Although DOC will independently act on credible violations, inform the victim that he or she should file a police report.
 - Ascertain the immediate safety needs of the victim.
 1. Ask, “Do you feel unsafe right now?” (If yes, determine whether law enforcement is needed and provide the 24 hour crisis line number on the Victim Resource Guide)
 2. Ask, “Do you feel unsafe in your home?” (If yes, ask if there is somewhere safe the victim can relocate to, such as with friends or family. If the victim does not have a safe place, provide the numbers on the Victim Resource Guide for shelter/housing.)
 3. Provide the victim with any other information from the Victim Resource Guide as needed.
 - Obtain information on the alleged violation and the context of risk and danger surrounding the incident. Ask the following Risk Questions:
 1. Do you think he/she will seriously injure or kill you, your children, or someone else close to you?
 - a) What makes you think so?
 - b) What makes you think not?
 2. How frequently does he/she intimidate, threaten, or assault you?
 - a) Is it changing?
 - b) Getting worse?
 - c) Getting better?
 3. Describe the time you were the most frightened or injured by him/her.
 4. Have you ever been threatened or intimidated by your abuser for seeking help or attempting to seek help from law enforcement, the courts or others? If so,
 - a) Who threatened you?
 - b) When was the threat made?
 - c) Describe the nature of the threat
 - d) Was a weapon used?
 - Corroborate the victim’s information and take enforcement action in a way that protects the victim from retaliation by the offender.
- Whenever an officer suspects an offender has committed a violation, investigate to determine if the suspicion is correct, provable and linked to victim safety (including secondary victims); proceed when there is probable cause for the violation including detaining the offender.
- When an arrest has been made, obtain a statement from the victim on the incident and the context of risk and danger surrounding the incident. Ask the above questions, as needed and as time permits, to obtain all pertinent information.
- Utilize the Victims as Collateral Contacts Guide when interacting with the victim.
- Provide a prompt response to all violations differentiated based on risk posed to the victim and the community.
 - Utilize the examples in the Example Sanctions Guide to augment Performance Grid sanctions.
 - Ensure probation/parole violations based on new criminal activity are presented to the governing authority before the new charge is resolved, if the activity is associated with increased risk to victim.
 - If there is increased risk to the victim, request the offender be detained until the conclusion of the violation hearing and the trial on the new criminal activity.

FELONY PSI CHECKLIST

The PSI should paint the most complete picture possible of the instant offense, history and level of abuse used by the defendant—both toward the victim of the immediate crime and toward other intimate partners.

Officers should use this as a guide for the types of information that should be collected, as resources permit.

<p style="text-align: center;">Offender Characteristics</p> <ul style="list-style-type: none"> <input type="checkbox"/> Family background and childhood exposure to violence (e.g., violence between parents, being a child victim of abuse) <input type="checkbox"/> Parenting history including children and stepchildren <ul style="list-style-type: none"> ▪ How children are disciplined ▪ How decisions in the family are made <input type="checkbox"/> Personal values and behaviors (e.g., prosocial/antisocial, male dominance) <input type="checkbox"/> Substance abuse history and treatment, including depression, anxiety, major psychotic disorders, suicidal attempts or threats <input type="checkbox"/> Mental health problems and treatment history <input type="checkbox"/> Possession or access to firearms, ammunition, or other weapons (including indications of weapon experience or pattern of use) <input type="checkbox"/> Results of past interventions with the offender <p><i>If you believe the offender is a victim of abuse:</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Document the dynamics of abuse experienced by the offender in the social history section <input type="checkbox"/> Recommend ordering the offender into a program other than traditional batterer intervention programs <input type="checkbox"/> Utilize the Recognizing when an Offender is also a Victim Guide 	<p style="text-align: center;">History of Violence</p> <p>Conduct presentence investigations that search all available records and capture complete information about the current offense and defendant’s past use of violence.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Emphasize crimes against the person when listing the defendant’s criminal history <input type="checkbox"/> Document the defendant’s history and patterns of domestic violence (involving the current or any other victims) <ul style="list-style-type: none"> ▪ Current and previous arrest records ▪ Current and previous police reports and 911 calls ▪ Current and previous protective orders against the offender(sought by the victim of the current offense and other victims) ▪ Reports from present and previous victims ▪ Reports from collateral sources (e.g., relatives of the victim or offender, neighbors, employers) ▪ Medical records <input type="checkbox"/> Document information that reliably indicates the presence of specific acts of violence, aggression, intimidation, or coercion by the offender toward an intimate partner. <p style="text-align: center;"><i>*Consider that there may be a history of abuse even if not documented in official records or reports</i></p>
<p style="text-align: center;">Assessing for Risk & Danger</p> <ul style="list-style-type: none"> <input type="checkbox"/> Incorporate history of abuse, context, severity, risk and danger in the social history and summary sections of the PSI <input type="checkbox"/> Utilize the following tools: <ul style="list-style-type: none"> ▪ Guide for Evaluating Risk and Danger ▪ The victim’s answers to the 4 Risk Questions ▪ Power & Control Wheel 	<p style="text-align: center;">Victim Impact Statement</p> <p>Call the victim to obtain a victim impact statement regarding conditions of probation, imposition of a stay away order, restitution and response to violations</p> <ul style="list-style-type: none"> <input type="checkbox"/> Encourage the victim to put her statement in writing <input type="checkbox"/> If you cannot contact the victim on the phone, mail the victim a letter with the victim impact statement form to complete <input type="checkbox"/> If a victim does not respond to your request to complete a victim impact statement, document attempts to contact her using nonjudgmental terms. <i>Do not state the victim was “uncooperative”</i>
<p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> <input type="checkbox"/> Make recommendations on sentencing and conditions of probation based on context, severity, risk and danger. <input type="checkbox"/> Utilize the Probation/Parole Special Conditions Guide in making recommendations on conditions of probation 	

Understanding Abuse Guide

The Understanding Abuse Guide lists definitions and numerous examples of physical, sexual and mental abuse. When probation/parole officers review conditions of release with the offender, whether or not there is a stay away order or protective order, the officer should explain that the condition to refrain from any illegal behavior includes refraining from abusive behavior. The officer may use the Understanding Abuse Guide as a tool to engage the offender in a discussion to ensure the offender understands the full scope of abusive behavior he must refrain from. This is especially important when the offender is under a stay away or protective order.

The Understanding Abuse Guide *should never be given to or shared* with the offender (in order to avoid providing the offender with a range of ideas for future abuse). However, probation/parole officers can use the examples on the guide during a discussion on abuse with the offender. Officers may also use this guide in holding the offender accountable for his actions when meeting with the offender or when informing the governing authority of the offender's behaviors. Officers should sign and date the guide once reviewed with the offender for inclusion in the offender's file.

If there is no criminal stay away order in place, but the officer believes a no-abuse order should be in place, the officer should request the governing authority order a protective order.

UNDERSTANDING ABUSE GUIDE

Probation and parole officers may utilize this guide as a tool to engage an offender in a discussion to ensure the offender understands the full scope of abusive behavior he must refrain from. The officer should determine which definitions/examples of abuse are the most relevant to discuss in order to ensure a thorough understanding of abuse by each individual offender.

Domestic violence is a pattern of behaviors in which one partner attempts to establish or maintain power and control over the other through physical, sexual, and/or mental abuse. There are many ways you may control a person through threat and intimidation without actually using physical violence, particularly if you have used physical violence against that person in the past.

As a result of your violence against your partner, you are directed to refrain from behaviors that constitute domestic violence, including but not limited to:

PHYSICAL ABUSE

Physical abuse is defined as any forceful or violent action directed at someone else.

Examples:

- Slapping, choking or strangling, maiming, stabbing, punching, scratching, wrestling, kicking, spanking, grabbing, pinching, biting, burning, pushing, poking, restraining, pulling hair, picking her up, carrying her, throwing her bodily, forcing her to eat or drink something, stopping her from getting medical attention, stealing or hiding her medication, throwing things at her or near her, using any object or weapon against her, physically making her do something against her will

(forcing her to sit down, hang up the phone, get into the car, put something down, stay at home, etc.)

These are only some examples of physical abuse. There are many other types of physical abuse that are not listed here but they are still domestic violence.

SEXUAL ABUSE

Sexual abuse is defined as any non-consenting (not freely agreed to) sexual act or behavior.

Examples:

- Forcing or demanding sexual activity when she says no, when she is asleep, when she is drunk or high, when she is afraid of being hurt (or that the children will be hurt or sexually abused) if she says no, when you have not asked first, asking for or demanding sexual activity after you have physically or mentally abused her (for example, hit her, pushed her, or threatened her).
- Physically attacking the sexual parts of her body (breasts, vaginal area, and buttocks), pulling or ripping her clothes off, demanding or forcing her to engage in sexual behaviors that she does not like, or that embarrass or humiliate her, or that scare or hurt her (such as oral or anal sex, sex in public places, tying her up, putting handcuffs on her, or forcing her to have sex with other people).

These are only some examples of sexual abuse. There are many more types of sexual abuse that are not listed here but they are still domestic violence.

MENTAL ABUSE

Mental abuse is defined as behaviors (words or actions) that are used to intimidate, create fear, or threaten another person.

Examples:

- Acting like you are going to physically or sexually abuse her or the children.
- Holding your hand up like you are going to slap, hit or punch, throwing things, making her think that you are going to throw or punch something, hurt the children, use a weapon, or break something, etc.
- Using your physical size to intimidate her (standing over her, backing her against a wall, blocking her from leaving a room or the house), getting in her face, using a commanding, intimidating tone of voice, yelling at her, the children, or pets, etc.
- Using threatening behaviors like: driving recklessly with her and/or the children in the car, throwing things, hurting a pet, punching walls, threatening her with an object or weapon

(including cleaning a weapon in front of her), slamming doors, smashing or breaking things, following her around to watch what she is doing, pulling the phone out of the wall, etc.

- Telling her that you are going to physically or sexually abuse her.
- Saying that if she does something you are going to slap, smack, shoot, stab, or hit her, the children or pets, making vague threats (like “You’re going to get it,” or “You better not piss me off,” or “Now you’re in trouble”) or referring to abuse you have subjected her or someone else to in the past (like, “Do you want me to hit you again?” or “You’re acting like you did the last time I hit you,” or “When you do that you remind me of my ex-girlfriend and you know what happened to her.”)
- Making threats to do things to her and/or the kids, such as saying that you will take away the children (or have them taken away), that you will have her arrested, that you will not pay child support, that you will have an affair, hurt a pet, commit suicide, or start drinking or using drugs (especially if you have been violent to her while under the influence).

While mental abuse may not cause immediate physical damage, it is very powerful because you have hurt her (and/or the children) in the past. All threats and threatening behaviors are abusive because you have shown that you may back up your threats with violence.

These are only some examples of mental abuse. There are many more types of mental abuse that are not listed here but they are still domestic violence.

Officer Signature

Date (reviewed with
offender)

Domestic Violence Treatment Programs Guide

This guide lists available domestic violence treatment programs, including contact information for domestic violence offenders. These programs are designed differently for men and women; therefore, officers should not assign male and female offenders to the same programs. Furthermore, officers should **never** order a domestic violence offender into an anger management program or couples counseling. Information for a batterer’s intervention program will be provided for the officer.

While officers are not permitted to share all of an offender’s information with a treatment program, officers should obtain a signed release from the offender in order to discuss compliance with the offender’s treatment programs. The officer and treatment program can work together to enhance the rehabilitation of the offender. For instance, the officer may inform the offender’s chemical dependency program if/when the offender uses drugs or alcohol. Similarly, if the officer informs the offender’s domestic violence program that the offender is continuing to abuse the victim or is engaging in high risk behavior, the domestic violence program can address this as part of the offender’s treatment. See *Appendix 9A: Rehabilitation Program Considerations in Domestic Violence Cases* in the Madison County Blueprint for Safety Appendix.

DOMESTIC VIOLENCE TREATMENT PROGRAMS

PROGRAMS FOR MALE/FEMALE OFFENDERS

Mike Burns	105 Boone St., Berea KY	(859)358-1101
Action Counseing- Mike Finucane	Stratton Building-EKU, Richmond KY	(859)233-7226
Sycamore Counseling & Wellness- Jimmie Lewis	620 Big Hill Ave., Suite 11, Richmond KY	(859)582-4283

*This is a list of all available State Certified local batterer’s intervention programs. Anger management programs are not appropriate in domestic violence cases.

Guide for Evaluating Risk and Danger

Domestic violence offenses are fundamentally different from stranger perpetrated crimes. Domestic violence offenders have unlimited access and knowledge of their victims that is used to strengthen their control over victims and reinforce victims' perceptions of living in a tightly controlled environment. For many domestic violence offenders who repeatedly abuse their partners, the next victim is predictable – either a current, former or future partner. Because of the patterned nature of most domestic violence, an in-depth understanding of the offender's history of violence can greatly increase the effectiveness of supervision and increase public safety.

Probation/parole officers should utilize the full range of information available to them to assess for risk and danger in structuring an offender's supervision. Officers should review all of the standard information obtained in structuring any supervision including police reports, 911 CADs, criminal histories, etc.

Assessing for risk is an ongoing process throughout the entire length of probation or parole. When conducting the required initial risk management assessment, probation/parole officers should use the Guide for Evaluating Risk and Danger to assist the officer in identifying other risk factors associated with domestic violence. The officer should continue to utilize the guide throughout supervision to continuously measure and adjust for risk and danger. The research summarized in the Guide for Evaluating Risk and Danger is applicable to offenders who are targeting their intimate partners with patterned coercive violence. Other offenders, as mentioned in the domestic violence introduction, must be considered on a case-by-case basis according to the underlying causes and history of the violence.

This Guide for Evaluating Risk and Danger is NOT a domestic violence assessment instrument. It is only a guide for gathering information about domestic violence cases. It should prompt community corrections professionals to investigate for the presence of these factors according to the circumstances of the case and as time and resources permit. However, it should not be used to determine a risk level or score.

GUIDE FOR EVALUATING RISK AND DANGER	
<p>This guide can be used to help probation/parole officers evaluate information about domestic violence cases. The factors below have been associated with domestic violence continuing, escalating or becoming lethal. Research hasn't established the patterns or total number of factors which identify the most likely recidivists or most dangerous offenders. <i>This is not a domestic violence risk assessment instrument.</i></p> <p>Risk will likely change over time and as circumstances change. You will have to use your experience and training to make judgments about the level of risk an offender poses.</p> <p style="text-align: center;"><u>Risk factors that may indicate lethality</u></p> <p>Certain types or patterns of violence</p> <ul style="list-style-type: none"> • Stalking • Strangulation; attempts to “choke” • Threats to kill the victim • Threats to kill that are conveyed to others • Threats of suicide • Forced sex or pressuring for sex even when separated • Serious injury to the victim • Carries, has access to, uses, or threatens with a weapon • Violence outside of the home • An increase in frequency, severity, or type of violence over recent months <p>Certain offender behaviors/characteristics</p> <ul style="list-style-type: none"> • Almost daily impairment by alcohol or drugs • Depression or Personality Disorder (risk of homicide/suicide for male offenders) • Failure of prior interventions to affect the offender • Prior arrests, law enforcement calls, and/or protection order(s) • Obsessive control of victim’s daily activities • Obsessive jealousy <p>Certain patterns or events in the relationship</p> <ul style="list-style-type: none"> • The victim attempting a permanent break • Estrangements, separations, and reunions • A victim making no attempt to leave despite severe abuse <p>Victims’ assessments of high levels of risk are often accurate. A victim who expresses fear that she will be killed should be taken seriously.</p>	<p style="text-align: center;"><u>Other factors that may indicate a risk for re-abuse or escalation</u></p> <p>An abuser’s reaction to the criminal justice response</p> <ul style="list-style-type: none"> • Aggression toward interveners • An abuser leaves before law enforcement arrive; eludes warrants • Non-compliance with probation or pre-trial release conditions <p>Certain types of abuse or control</p> <ul style="list-style-type: none"> • Threats to family, coworkers, victim’s new partner • Animal abuse or killing pets • Violent during pregnancy or shortly after birth • Hostage-taking; restraint • Acts exhibiting extreme hostility toward the victim • Damages victim’s property • Isolation of victim (physical or social) • Ongoing efforts to take children from their mother • Significant and harmful use of a child • Drawing others into the abuse (e.g., children, family, friends) • First act of violence is life-threatening or brutal <p>Certain characteristics of or events in the relationship</p> <ul style="list-style-type: none"> • A victim seeking outside help in the past year • A victim has a child who is not the offender’s <p>Certain characteristics of the abuser</p> <ul style="list-style-type: none"> • Lack of remorse • Mental health issues • Financial difficulty; unstable housing • Generalized aggression or violent acts • History of violence in multiple relationships
<p><u>Adjusting for risk and danger</u></p> <p>A probation officer should take any appropriate action to address risk and danger, including but not limited to:</p> <ul style="list-style-type: none"> • Providing a prompt response to all violations • Enhancing the level of supervision • Requesting special conditions of the governing authority • Warning a victim if you believe they are in danger • Asking a victim to make a police report • Linking a victim with an advocate 	

Probation/Parole Special Conditions Guide

This guide includes an extensive list of conditions that might be used in domestic violence cases. The probation/parole officer should utilize this guide in determining what special conditions to request be ordered in the case. If even a fraction of the conditions on the list are imposed, the probationer would be subject to numerous special conditions. This is not necessary, or desirable, in most cases. It is assumed that the probation/parole officer will use his/her professional judgment to choose from conditions on the list considering the probationer's needs, any statutory mandates, the severity of risk in the particular case, the offense level, the length of supervision, the history of violence and any other factor appropriate to the particular case. Some special conditions will be appropriate for only the highest risk offenders and the number of special conditions may need to be limited in light of the length of supervision. This guide may also assist the officer in making recommendations on conditions of probation when preparing a presentence investigation report.

While the list of special conditions is extensive, it does not cover every possible condition. In some cases it may be necessary to request special conditions of probation tailored to the unique characteristics of the case. In stalking cases, for instance, the probationer may have an internet bulletin board where he posts items about the victim, may constantly dedicate songs to the victim on a favorite radio show, may post items on the internet purporting to be from the victim, etc. In those cases it may be necessary to craft particular conditions if the current conditions do not cover the abusive behavior. See *Appendix 9B: Training Memo – Conditions of Probation* in the Madison County Blueprint for Safety Appendix.

PROBATION/PAROLE SPECIAL CONDITIONS GUIDE	
1. Drugs/Alcohol	
a.	You may not use or possess alcoholic beverages.
b.	You must attend Alcoholics Anonymous or an equivalent program weekly as directed by your probation/parole officer.
c.	You must cooperate with a chemical dependency evaluation and follow any recommendations of the evaluation, including aftercare, as directed by your probation/parole officer.
d.	You must submit to random testing for the presence of controlled substances or alcoholic beverages as directed by your probation/parole officer.
2. Employment/School	
a.	You must obtain and maintain employment as directed by probation/parole officer.
b.	You must report any changes in employment to your probation/parole officer within 72 hours of the change. The obligation to report includes any involuntary changes such as being fired or laid off.
c.	You must attend and cooperate with any job-seeking programming as directed by your probation/parole officer.
d.	You must attend and cooperate with any life skills programming as directed by your probation/parole officer.
e.	You must attend and cooperate with any high school equivalency program as directed by your probation/parole officer.
f.	You may not change employment without the prior permission of your probation/parole officer if, as a result, you would be working for the same employer as _____ (victim).
3. Law Abiding	
a.	You must obey all court orders, including any orders for protection or stay away orders. An action, or inaction, prohibited by court order violates probation/parole even if it is not charged as a crime or does not result in a criminal conviction.
b.	You must not use threats, intimidation or coercion against any person
c.	You must not use illegal violence against any person.
d.	You must obey all court orders including protection orders, child support and custody orders, and orders regarding return of children from parenting time.
3A. Other provisions to consider when needed in particular cases:	
You must obey all court orders including orders regarding child support.	
4 Miscellaneous:	
a.	If requested by your probation/parole officer, you must sign releases of information related to: <ol style="list-style-type: none"> i. Victim of this offense: A release sufficient to allow your probation/parole officer to discuss and review with the victim statements made by you to the probation/parole officer writing the presentence investigation. ii. Medical/Mental Health programs or professionals. These releases must be sufficient to allow your probation/parole officer to verify if you are attending and complying with your treatment and medication programs. iii. Chemical Dependency programs. These releases must be sufficient to allow your probation/parole officer to verify that you are attending and complying with the chemical dependency program and to allow any person working with the program to be informed if you use alcohol or drugs. iv. Domestic Violence Programs. These releases must be sufficient to allow your probation/parole officer to: <ul style="list-style-type: none"> • Verify that you are attending and complying with the domestic violence program. • Discuss with the program any concerns about your compliance with, or adjustment to, probation/parole. v. Other Third Parties. Releases as necessary to monitor your compliance with the conditions of your probation/parole.
b.	You must provide to your probation/parole officer all court documents relating to the victim in this case: <ol style="list-style-type: none"> i. Protection orders ii. Harassment restraining orders iii. Stay away orders iv. Custody and visitation orders or agreements v. Civil court judgments

4A. Other provisions to consider when needed in particular cases:	
a.	You must make full disclosure of the status of any child custody investigations, paternity actions, adoption proceedings and other family or civil matters.
b.	You must cooperate with child or adult protection services and make full disclosure of criminal history and status
c.	You must obey any curfew imposed by your probation/parole officer.
5. Stay Away Orders:	
a.	In cases where the offender is subject to a criminal stay away order or protective order, review the following with the offender. If there is no criminal stay away order in place, but the officer believes one should be in place, the officer should request the governing authority order a stay away or protective order.
b.	You must have no contact, directly or indirectly, with the people listed below. Prohibited contact includes, but is not limited to, physical, verbal, visual, letters, phone calls, computer transmissions, videos, visits, photographs or text messaging. Prohibited contact also includes any form of contact through a third party. Contact for the purpose of arranging parenting time with joint children is also prohibited except as provided for by the court order granting parenting time. <ul style="list-style-type: none"> i. the victim of this offense, _____; ii. the victim’s children; iii. others residing in victim’s home; iv. the victim’s employer; or v. the following other individuals: _____.
c.	You must stay away from the area within _____yards of: <ul style="list-style-type: none"> i. the victim’s current and all future residences; ii. the victim’s school; iii. the victim’s current and any future employment; iv. the school attended by the victim’s children. You may not be within this area even if the victim’s children are also your children. If there is a school program or other special event at the school that you wish to attend, you may be in the school area only if with prior written approval from your probation/parole officer. You may be in the area only in the manner and at the time specified by that written approval. If you have an existing court order for parenting time which requires you to pick up or drop off the children at school, you may be within the school area for that purpose only with prior written approval of your probation/parole officer and only in the manner and at the time specified in that written approval. v. the childcare facility attended by the victim’s children. You may not be within this area even if the victim’s children are also your children. If there is a program or other special event at the childcare facility that you wish to attend, you may attend only with prior written approval from your probation/parole officer. You may be in the area only in the manner and at the time specified by your probation/parole officer. In the event that you have an existing court order for parenting time which requires you to pick up or drop off the children at daycare, you may be within the school area for that purpose only with the prior written approval of your probation/parole officer and only in the manner and at the time specified in that written approval.; vi. the following additional locations: _____.
d.	You may not have unsupervised contact with the following children _____.
5A. Other provisions to consider when needed in particular cases:	
a.	You must have no contact with persons specified by your probation/parole officer.
b.	You must stay away from places specified by your probation/parole officer.
6. Programming:	
a. Domestic Violence:	
i.	You must attend, cooperate with and complete domestic violence treatment as directed by your probation/parole officer.
ii.	You must attend and cooperate with any other designated domestic violence group if, and for long as, required by your probation/parole officer.
iii.	You must attend a domestic violence parenting program as directed by your probation/parole officer
b. Chemical Dependency:	
i.	You must cooperate with a chemical dependency evaluation and follow any recommendations of the evaluation, including aftercare, as directed by your probation/parole officer.

<p>ii. You must attend Alcoholics Anonymous or an equivalent program weekly, as directed by your probation/parole officer.</p>
<p>c. Mental Health:</p>
<p>i. You must cooperate with a psychological evaluation, and follow any recommendations of the evaluations, as directed by your probation/parole officer.</p>
<p>ii. You must cooperate with your current mental health treatment program, including:</p> <ul style="list-style-type: none"> • Taking all prescribed medications as directed; and, • Attending and cooperating with appointments with your psychiatrist and/or therapist and counseling group(s).
<p>iii. You must cooperate with case manager/other mental health professional or civil commitment requirements as directed by your probation/parole officer.</p>
<p style="text-align: center;">7. Residence:</p>
<p>You must make no change in residence without prior written approval of your probation/parole officer.</p>
<p style="text-align: center;">8. Restitution:</p>
<p>You must pay restitution in the amount of \$ _____. You must pay the restitution as directed by the probation/parole department.</p>
<p style="text-align: center;">9. Weapons other than Firearms:</p>
<p>You must not use or possess any dangerous weapon. For the purposes of this provision a weapon is any device designed as a weapon or any device which is used, or intended to be used, as a weapon.</p>
<p style="text-align: center;">10 Firearms:</p>
<p>a. You may not use or possess any firearm. This prohibition is in addition to any prohibition imposed as a special condition of probation/parole in your case. For the purposes of this provision a firearm is any weapon which discharges a projectile by means of an explosive, a gas or compressed air.</p>
<p>b. In addition to these conditions of probation/parole, state and federal law prohibit use and possession of guns, silencers, destructive devices, tear gas and other devices. Some of those prohibitions are summarized in the Possession of Firearm and Ammunition Notice which your probation/parole officer will review with you. This is a partial list only. You should not assume that you may possess a device just because it is not on that list. If you have any questions about whether you are prohibited from possessing any device you are responsible for consulting with your attorney before possessing it.</p>
<p style="text-align: center;">10A. Other provisions to consider when needed in particular cases:</p>
<p>a. You may not use or possess a pistol for 10 years. The length of this prohibition may be extended by a new conviction within those 10 years.</p>
<p>b. You may not use or possess any firearms for _____ years.</p>
<p>c. You may not use or possess any firearms for the duration of your life.</p>

Recognizing when an Offender is also a Victim Guide

A probation/parole officer may recognize that an offender, most likely a female offender, is also a victim of ongoing abuse or violence. If the probation officer recognizes that a female offender, who is convicted of a domestic violence offense, is being abused by the victim in the case, the probation/parole officer should confront the offender's use of violence, but avoid supervision that may make the offender vulnerable to future abuse.

Many women who use violence against their male partners are being battered. Their violence is primarily used to respond to and resist the controlling violence being used against them. A female offender who is also a victim of battering likely used violence to control the situation, not to establish overall control of the other person.⁹ It is rare in heterosexual relationships that a woman has the capacity, opportunity and socialization to batter (as distinguished from using violence) but while uncommon, such cases do occur. In gay or lesbian relationships the male or female victim of abuse will sometimes use illegal violence against his or her partner and also fall into this category of cases involving an offender who is also a victim. The objectives in these cases are the same. Intervene in ways that a) offer the victim of battering that is using violence alternative ways to cope, manage, or respond to being battered and b) reduce the violence and coercive control the offender is being subjected to by their batterer.¹⁰

RECOGNIZING WHEN AN OFFENDER IS ALSO A VICTIM GUIDE

Supervision Checklist

Probation/parole officers should abide by the following guidelines when supervising an offender who is being abused or battered by the victim in the case, and who is now on probation for using reactive violence:

- Consider whether the offender acted in self-defense
- Offenders who are under supervision for using reactive violence against their batterer's abuse should be sent to domestic violence treatment programs that address this type of violence, not batterer programs.
- Intervention programs should counter the offender's reliance on and use of violence for self-help
- Connect the offender to domestic violence advocacy program that can provide resources
- Avoid strengthening the offender's abuser's position of dominance and power
- Consider the possibility of working with police and prosecutors to take action against the offender's abuser's behavior as resources may permit
- Anticipate the potential for both parties to use severe or lethal violence

Situations & Behaviors Associated with Risk of Re-Offense

- Increased sense of entrapment
- Reacting to harm done by their abuser to their children (including sexual abuse)
- Inability to stop excessive drinking or drug use
- Being continually subjected to sexual and/or physical abuse
- Increased economic dependence on abuser or financial instability
- The offender believes the abuser/batterer is using the courts, child protection, and/or the mental health system as a form of harassment and abuse.
- The offender's abuser/batterer is engaging in acts of abuse listed in the Guide for Evaluating Risk and Danger as particularly associated with dangerousness

Indications of Victims of Abuse Who Kill their Abusers

- Access or prior use of weapons
- More than 10 violent incidents in the last year at the hands of her or his abuser
- Prior police intervention in one or more domestic violence calls
- Isolation from family and friends
- Prior strangulation by her or his abuser
- Traditional relationship (married, children, lengthy relationship)
- Being continually subjected to sexual and or physical abuse by her or his abuser
- Increased sense of entrapment

Victims as Collateral Contacts Guide

Victims are a necessary and critical collateral contact that probation/parole officers should utilize as a source of information in order to assist the officer in the supervision of domestic violence offenders, to hold offenders accountable, and to protect victim (current or future) and public safety. The victim is intimately aware of the offender's activities, patterns, behaviors, and triggers. Therefore, victim perceptions and interpretations are important and will inform officers on the context of and risk factors involved in the case. Independent verification of victim information will inform officers of potential increased risk to the victim or violations, and assist with credibility determinations. Independent verification of information that will be used in sentencing or sanctioning offenders will also reduce the possibility of retaliation toward the victim by the offender. Determining and managing risk is an ongoing process. Victim information will assist probation/parole officers in obtaining an accurate read of what is occurring.

The Victims as Collateral Contacts Guide should be used to obtain information from victims that will assist the officer in the offender's supervision. Contact with the victim may occur in the following circumstances:

- House visits
- Cases where the offender maintains any degree of contact with the victim (ongoing relationship, ongoing divorce proceedings or separation, shared children)
- The victim initiates contact
- The victim notifies the officer of a domestic violence incident or a violation
- A domestic violence arrest is made, requiring a victim statement

This Practice Guide in no way suggests that probation/parole officers are positioned to take on the role of domestic violence advocates. However, probation/parole officers are positioned to provide victims with the Victim Resource Guide information and facilitate their connection to local advocacy programs.

VICTIMS AS COLLATERAL CONTACTS GUIDE

See the list of circumstances when probation/parole officers will interact with victims on p. 14 and apply this guide in each of those circumstances as time and resources permit.

Initial Victim Contact

- When interacting with the victim for the first time, obtain information that will benefit and assist the probation/parole officer in the supervision of the offender.
 - Obtain information on violence, coercion, abuse and intimidation in the instant offense and history among the parties
 - Review information related to the indicators in the Guide for Evaluating Risk and Danger
 - Discuss the conditions of release to determine if any conditions affect the victim’s safety and determine the victim’s position on restitution
 - Seek pertinent information from victims about their concerns during supervision, including how to report violations in a manner that does not increase risk to victim

- If initial contact cannot be made on the phone, speak with the victim during house visits when possible (speak with the victim out of hearing range of the offender, if he is present)

- Explain any limits to confidentiality of information the victim provides to the officer (e.g., mandatory reporting of evidence of child and elder abuse and neglect; reporting further acts of abuse by offender)

- Confirm what information the victim does not wish the officer to share with the offender or with the governing authority
- Ask and document safe procedures for future contact. Provide the officer’s name and contact numbers.
- Ascertain whether the victim wants an ongoing stay away provision
- Ascertain whether the victim intends to have an ongoing relationship with the offender
- Determine if the victim and offender have children in common and if so the current legal framework governing custody and parenting time
- Discuss any incidents of harassing, assaultive or threatening behavior which occurred while the offender was incarcerated
- Provide the victim with the Resource Guide for Victims

Best Practices in Interacting with Victims

- Whenever possible, minimize the victim’s need to confront the offender.
- When using information provided by the victim, protect her or him from retaliation by not identifying the victim as the source of the information.
- Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
- Be mindful of the complex and often-dangerous implications of a victim’s collaboration with interveners.
- Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to “tell all,” although they may do so in unguarded moments. Take great care to not endanger victims with what they have shared about their lives.
- Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him as simply an information source.
- In order to avoid unintentionally replicating or reinforcing the actions of the abuser, offer a clear alternative to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions and that the abuser is unstoppable.

Continuing Victim Contact

- Unless the victim does not want continuing contact, the officer should remain engaged with the victim.
- Continuing victim engagement is particularly important for victims who:
 - Are in a continuing relationship with the offender
 - Have children in common with the offender
 - Who have ongoing safety concerns
- Obtain information on the offenders current activities
- Obtain information related to the Guide for Evaluating Risk and Danger
- Determine if any new protective orders or civil/family court proceedings have been filed, if police have been called or if there have been new arrests

Notify the victim when the officer has a reasonable belief that the victim is at increased risk of danger

Chapter 9: Probation and Parole

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Victim Resource Guide

The Victim Resource Guide lists contact information for Hope’s Wings Domestic Violence , an advocacy organization that the victim may contact for emergency shelter, counseling, safety planning, support group, transportation, job training and other services. Contact information for the Kentucky Coalition Against Domestic Violence agency will also be listed.

<u>VICTIM RESOURCE GUIDE</u>	
<p>Hope’s Wings Domestic Violence Program</p> <p>(859) 623-4095</p> <p>Counseling, safety planning, emergency shelter, housing assistance, support groups, victim compensation assistance, transportation, job training and other services</p>	
<p>Do you need help with <u>shelter or housing</u>?</p> <p>You can call:</p> <ul style="list-style-type: none"> ▪ Hope’s Wings (859) 623-4095 (Madison County) ▪ Green House 17 (859) 233-0657 (Fayette County) ▪ Cumberland Valley DV Services (606)843-2022 (Laurel County) 	<p>Do you need a <u>protective order</u>?</p> <p>A protective order is a document from the court that can tell your abuser he can’t come near you, your family or friends, or can’t destroy or sell your belongings.</p> <p>You may also be able to get temporary custody of your children, use of your home (even if it is owned by your abuser), or other things you need to stay safe.</p> <p>For <u>free legal help</u>:</p> <ul style="list-style-type: none"> ▪ AppalRed Legal Aid (859)624-1394 ▪ KY Coalition Against Domestic Violence 1-800-799-SAFE
<p>Do you want to <u>talk to someone</u>?</p> <p>You can call the hotline below. You can also contact:</p> <ul style="list-style-type: none"> ▪ Crescent House (504) 866-9554 ▪ Metropolitan Center for Women and Children (504) 837-5400 	
<p>Do you need <u>help with costs</u> related to abuse you reported to the police?</p> <p>You can call:</p> <ul style="list-style-type: none"> ▪ Madison County Commonwealth Atty (859)624-4728 ▪ Madison County Atty (859)624-4777 	
<p>KY Coalition Against Domestic Violence: 1-800-799-SAFE</p>	

Example Sanctions Guide

When an officer suspects a violation of any condition of probation/parole has occurred, investigate to determine if the suspicion is correct, provable, and linked to victim safety (including secondary victims); proceed with the violation any time there is probable cause for the violation and it appears likely that the clear and convincing standard can be met.

Consider the following factors when determining the appropriate response to a violation:

- Whether the violation is based upon a new allegation of assaultive, threatening, or stalking behavior, or a crime against the property of the current or a former victim
- Ongoing risk assessment to determine factors and behaviors linked to victim safety, the strength of those links, and adapting the probation/parole response accordingly
- Concrete changes the offender has made to date
- General community safety
- Current and past adjustment to probation/parole

Probation/parole officers utilize the Performance Grid in determining appropriate sanctions for violations of probation/parole conditions. In addition to the Performance Grid, probation/parole officers should use the Example Sanctions Guide to determine sanctions specific to the dynamics of domestic violence. The examples in this guide are suggested by the American Probation & Parole Association Community Corrections Response to Domestic Violence: Guidelines for Practice.

There are several options listed on the Example Sanctions Chart, but all options will not be used at one time. Probation/parole officers should select whatever is the most appropriate sanction or set of sanctions in the instant case.

EXAMPLE SANCTIONS GUIDE	
<i>Intermediate Sanctions That Are Effective With Domestic Violence Offenders</i>	
Failure to report.	Increase all types of contact, issue directive to report and comply, revoke travel and other privileges, initiate petition to revoke if immediate victim safety concerns are present.
Failure to obtain/maintain employment.	Place offender on job search, issue directive to go to local job center or temporary job service agency, increase rate of community service hours until employment obtained, increase reporting to the office until employment obtained, refer to a job training program, issue written probation/parole violation warning.
Changing place of residence without permission	Increase all types of contact, increase offender reporting, impose/modify terms of curfew, issue written probation/parole violation warning, revoke travel or other privileges, initiate petition to revoke if immediate victim safety concerns are present.
Unauthorized contact with a person with a criminal history	Issue directive to terminate ongoing contact, increase all types of contact, impose/modify terms of curfew during late evening hours if contact continues to persist, revoke travel or other privileges.
Possession of deadly or dangerous weapons.	Confiscate the weapon, make an immediate arrest for violation and initiate revocation proceedings. If an officer arrests the offender on a new charge; seek revocation.
Consumption of alcoholic beverages	Written violation admission warning, directive to treatment or halfway house, increased field contacts, increased testing for alcohol, contact with victim discontinued if immediate victim safety concerns are present due to the consumption of alcohol, filing of petition to revoke if immediate victim safety concerns are present.
Possession and/or use of illicit drugs.	Written violation admission warning, directive to treatment or halfway house, increased field contacts, increased urinalysis testing for drug use, contact with victim discontinued if immediate victim safety concerns are present due to offender's drug use, filing of petition to revoke if immediate victim safety concerns exist.
Failure to comply with drug/alcohol testing.	Written directive increasing urinalysis testing, increase all types of contact, written violation admission warning, directive to treatment or halfway house, initiate petition to revoke if immediate victim safety concerns are present.
Failure to participate in or complete treatment.	Written violation admission warning, directive to attend treatment, revoke travel or other privileges, increase reporting, increase all types of contacts, increase drug/alcohol testing, initiate petition to revoke if immediate victim safety concerns are present.
Failure to comply with order of confinement	Submit petition to modify with new order of confinement, initiate petition to revoke.
Failure to comply with community service orders	Issue directive to complete missed hours the following month, make directives specific to dates and number of hours, revoke travel and other privileges, increase all types of contacts, increase reporting to the office until compliant with community service hours, arrange compliance facilitation session, written violation admission warning.
Unauthorized victim contact	Written violation admission warning, increase all types of contact, submit memo to the governing authority, impose/modify terms of curfew, assess need for treatment and redirect to counseling, if immediate victim safety concerns are present, file petition to revoke or at a minimum submit memo to the governing authority.
Source: American Probation & Parole Association Community Corrections Response to Domestic Violence: Guidelines for Practice. Adapted from Protocol and Desk Reference for the Supervision of Domestic Violence Offenders on Probation/parole, Maricopa County (AZ) Adult Probation/parole Department.	

The Power and Control Wheel

Power and Control Wheel represents the lived experience of women who are abused by men. It does not attempt to give a broad understanding of all violence in the home or community but instead offers a more precise explanation of the tactics men use to batter women. As stated above, different social circumstances surround the use of violence by women against men and violence among same-sex partners.

The batterer's main motivation – "power and control" – is in the center of the wheel. A batterer systematically uses threats, intimidation, and coercion to instill fear in his partner. These behaviors are the spokes of the wheel. Physical and sexual violence holds it all together—this violence is the rim of the wheel.

The Wheel can be used to help victims recognize they are being abused; it can also be used in batterer intervention programs to confront an abuser's tactics. Probation/parole Officers may similarly utilize the Power & Control Wheel in determining whether or not their domestic violence case involves battering. It may also explain why a victim might return to an abusive spouse or why a victim is uncooperative. The power dynamic created between the offender and victim becomes an overarching framework within which the probation/parole officer must operate. Considering this dynamic, officers should not assume that victims of battering are free to act in their own interest.

POWER & CONTROL WHEEL



DOMESTIC ABUSE INTERVENTION PROJECT

202 East Superior Street
Duluth, Minnesota 55802
218-722-2781
www.duluth-model.org

Release of Information Form

Ensure that the offender signs releases which allow:

1. Release of records:
 - From court-ordered programs and service providers to probation officers
2. Information sharing and discussion regarding attendance, indications of continued or escalating risk, and the offender's cooperation with the program:
 - From all court-ordered programs and service providers working with the probationer to probation
 - Between all programs and service providers to which the probationer has been court-ordered
3. Information sharing regarding indications of continued or escalating risk, and the offender's compliance with supervision
 - From the probation officer to any other necessary third party that can assist in victim safety, such as law enforcement.

While officers are not permitted to share all of an offender's information with a treatment program, officers should obtain a signed release from the offender in order to discuss compliance with the offender's treatment programs. The officer and treatment program can work together to enhance the rehabilitation of the offender. For instance, the officer may inform the offender's chemical dependency program if/when the offender uses drugs or alcohol. Similarly, if the officer informs the offender's domestic violence program that the offender is continuing to abuse the victim or is engaging in high risk behavior, the domestic violence program can address this as part of the offender's treatment.

DOMESTIC VIOLENCE RELEASE OF INFORMATION

I understand that the confidentiality of my records is protected under governmental and ethical regulations and that my records cannot be released without my written consent, with the exceptions listed below:

1. If my records are subpoenaed by a court of law;
2. When the probation/parole officer is legally bound to warn the victim and report to the authorities:
 - i. If a person intends harmful, dangerous, or criminal actions against one’s self or others;
 - ii. If a person is involved in child abuse or neglect.

I understand that all information gathered on an individual is personal and private. Such information cannot be released without written permission, except as required by law.

I understand that the information in my record:

_____ / / _____
 Client Address DOB

Is personal and private, however, I give permission for:

_____ _____
 Name Address

To release to: KY Division of Probation & Parole

Attention: _____

The following specific information: _____

This release of information will expire on ___/___/_____, which is one year from today’s date. This consent may be revoked in writing at any time. However, I understand that I must provide this permission as a condition of my probation/parole or release.

Executed this _____ day of _____, 20__

Participant (print)

Participant (Signature)

Probation/parole Officer

Prohibitions on Possession of Firearms Notice

The following information provides background on the state and federal laws on firearm prohibitions and a Notice that can be provided to and signed by the offender and supervising officer.

PROHIBITIONS ON POSSESSION OF FIREARMS NOTICE

According to research, “Abused women are **five times** more likely to be killed by their abuser if the abuser owns a firearm. Domestic violence assaults involving a gun are **23 times** more likely to result in death than those involving other weapons or bodily force.¹¹

There are a number of federal and state statutes which prohibit possession of firearms and/or ammunition after a domestic violence related incident. The following are some of the most commonly applicable prohibitions. **This is not a complete list of prohibitions.**

You are responsible for compliance with all applicable statutes. If you have any questions regarding what prohibitions apply to you, contact your attorney or a public legal service for clarification.

Kentucky Law does not:

- Prohibit individuals convicted of domestic violence misdemeanors from possessing firearms or ammunition (unlike federal law);
- Prohibit individuals subject to domestic violence protective orders from possessing firearms or ammunition (unlike federal law);
- Require courts to notify domestic abusers when they become prohibited from possessing firearms or ammunition under federal law;
- Require the surrender of firearms or ammunition by domestic abusers who have become prohibited from possessing firearms or ammunition under federal law; or
- Explicitly authorize or require the removal of firearms or ammunition at the scene of a domestic violence incident.

Kentucky Law does provide the following relating to domestic violence and firearms:

- The Kentucky Justice and Public Safety Cabinet must make a reasonable effort to provide notice to a person who obtained a domestic violence protective order if the person subject to the order has attempted to purchase a firearm. This requirement only applies if the person who sought the protective order requests such notification. KRS 237.100(1), (2).
- A court or agency making a decision regarding pretrial release of a person who is arrested for assault or certain sexual violations or who has been charged with a violation of a domestic violence protective order may impose, as a condition or pretrial release, an order prohibiting the person from using or possessing a firearm. KRS 431.064

- Kentucky provides for the suspension of a license to carry a concealed deadly weapon if the licensee is subject to a domestic violence order or emergency protective order. KRS 237.110(13)(k).
- Finally, Kentucky law explicitly provides that a restraining order triggered by a conviction for, or guilty plea to, stalking does not “operate as a ban on the purchase or possession of firearms or ammunition by the defendant.” KRS 508.155(6)

Federal Law

Conviction of a Felony

The Gun Control Act of 1968 (18 U.S.C. § 922(g)(1-7)) prohibits felons (i.e., offenders convicted of a **state or federal** crime punishable by imprisonment for a term exceeding one year) from possessing, receiving, or transporting firearms or ammunition. Violation of the law carries a maximum penalty of a \$10,000 fine, or ten years in prison, or both (18 U.S.C. § 924(d)). Domestic violence offenders convicted of **state or federal** felony offenses are subject to this prohibition.

Conviction of a “Qualifying Misdemeanor”

In addition, under federal law, it is a crime to possess a firearm after conviction of a qualifying state misdemeanor crime of domestic violence (MCDV). A "qualifying misdemeanor" is one which:

- Is a federal, state, or local offense that is a misdemeanor under federal or state law;
- Has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon; and,
- At the time the MCDV was committed, the defendant was:
 - A current or former spouse, parent or guardian of the victim;
 - A person with whom the victim shared a child in common;
 - A person who was cohabitating with or had cohabitated with the victim as a spouse, parent or guardian; or,
 - A person who has or had been similarly situated to a spouse, parent, or guardian of the victim.

[18 U.S.C. § Sec. 2261(a)(1); 18 U.S.C. § 922(g)(9).]

Subject to a Qualifying Protective Order

It is also a crime to possess a firearm while subject to a qualifying protective order. Qualified protection orders must contain the following elements:

- The respondent/offender (i.e., the domestic violence offense perpetrator), must have received actual notice and had the opportunity to participate in a hearing
- The petitioner must be an intimate partner of the respondent/offender (spouse, former spouse, parent of a child in common with the respondent/defendant, or current or former cohabitant with the respondent/defendant)

- The order must restrain the respondent from harassing, stalking, or threatening an intimate partner or the child of the partner or the respondent, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child;
- And the order must either:
 - Include a finding that the respondent represents a credible threat to the physical safety of such intimate partner or child, or
 - Explicitly prohibit the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

Official-Use Exemption for Certain Persons Subject to a Protection Order

A provision of the federal law (18 U.S.C. § 925(a)(1)) exempts military personnel, law enforcement officers, and other local, state and federal employees required to use firearms to conduct their official duties from the prohibitions against possessing their service weapons. However, they may not possess personal firearms. If any of these employees also are convicted of a misdemeanor domestic violence offense, the official-use exemption does not apply to them. Military personnel, law enforcement officers, and others required to carry weapons who are convicted of misdemeanor domestic violence offenses may not possess personal or officially issued weapons, and thus are likely to be declared ineligible to perform the duties of their job.

Offender Signature

Date

Officer Signature

Date

CHAPTER 9 ENDNOTES

- ¹ American Probation & Parole Association Community Corrections Response to Domestic Violence: Guidelines for Practice p. 23
- ii. Dutton et al. (2005) present an overview of domestic violence when criminal conduct is linked to coercion. They point out that “coercion in which an assault is imbedded helps to define its level of severity” (p. 2). In discussing domestic violence, Erskine (1999, p. 1209) addresses multiple criminal acts, from misdemeanors to felonies.
- ³ American Probation & Parole Association Community Corrections Response to Domestic Violence: Guidelines for Practice p. 16
- ⁴ Blueprint Training Memo – Risk & Dangerousness: Managing Severe or Lethal Violence
- ⁵ Adding a victim’s prediction of reassault significantly increases the accuracy of risk assessment, as addressed by; Gondolf and Heckert (2003); Heckert and Gondolf (2004); and Weisz, et al. (2000, p. 86).
- ⁶ Sullivan and Bybee (1999, p. 43) found that, compared to victims who did not work with advocates, victims who worked with advocates were more than twice as likely to live without violence for the next two years. Research from Quincy, MA by Buzawa et al. (2000) also found victim advocacy had a positive impact on prosecution. The effect of working cooperatively with victims is discussed in Belknap and Sullivan (2003); Ford and Regoli (1993); and Goodman and Epstein (2008).
- ⁷ Recent work on motivational interviewing shows promise for increasing compliance and decreasing abuse for domestic violence offenders. Motivational interviewing trainings for probation/parole officers are available from the National Institute of Corrections (NIC). Also see Walters et al. (2007).
- ⁸ Blueprint Training Memo – Risk & Dangerousness: Managing Severe or Lethal Violence
- ⁹ American Probation & Parole Association Community Corrections Response to Domestic Violence: Guidelines for Practice p. 20, and the Blueprint for Safety Training Memo “Interventions with Victims of Battering as Suspects or Defendants.”
- ¹⁰ Blueprint for Safety Training Memo “Interventions with Victims of Battering as Suspects or Defendants”
- ¹¹ <http://smartgunlaws.org/domestic-violence-firearms-policy-summary/> (citing: Jacquelyn C. Campbell et al., Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study, 93 Am. J. Pub. Health 1089, 1092 (July 2003) & Linda E. Saltzman, et al., Weapon Involvement and Injury in Family and Intimate Assaults, 267 JAMA, 3043-3047 (1992).)