I. INTRODUCTION
The Risk Assessment Committee was asked to prepare a report for the Maine Commission on Domestic and Sexual Abuse that addresses the following questions and makes recommendations for future use of risk assessment in domestic violence cases:

1. Determine the current utilization and management of risk assessment in Maine in law enforcement, judicial, bail, advocate and other settings as identified.
2. Review research based, standardized risk assessment instruments and model practice(s) for their use, including the questions:
   • How do we try to assess risk in DV cases? What categories do we use?
   • How have DV risk assessments typically been conducted? What risk is being assessed? Are there particular factors being used? Why were they chosen?
   • What are some of the various types of risk assessment instruments?
3. Review data from other states or regions on use of risk assessments and outcomes related to risk assessment.
4. Prepare a report for the Commission which may include:
   a. Recommendations for policy related to risk assessment
   b. Recommendations on proposed practice model(s)
   c. Proposed education and training associated with recommended models
   d. Proposed practice locations for use of specific RA instruments
   e. Commission’s role in the advancement of recommended best practice(s)

The Committee met monthly from July 2011 to February 2012, including meetings of the full Commission in December and January meetings. The Committee consists of Commission members, as well as representatives from a number of other organizations who were asked to participate to bring their expertise and perspective to the study process. See full list of members, Appendix A. Committee members conducted research on the use of evidence based risk assessments in other jurisdictions, including general risk assessments, specialized tools developed for use in the domestic violence context, and pre-trial risk assessments. The Committee also collected and reviewed the scientific and legal literature addressing risk assessment with the help of a consultant, Robert Moyer, Ph.D., Bates College (ret.). The Committee conducted surveys about the current use of risk assessment in the Maine criminal justice system and the advocacy community. Two Committee members also attended a national conference on Risk Assessment in domestic violence cases in October. The results of the research and surveys, meeting minutes, and Committee documents were posted on a Google site to facilitate an open process.

Given the short timeframe, Committee members agreed early in the process to narrow their focus to the use of risk assessment in the criminal justice system in order to make recommendations that would be useful in the current legislative session. The Committee does recommend, however, that work continue to examine the use of evidence based risk assessment tools in the healthcare and other arenas.
II. RECOMMENDATIONS FOR RISK ASSESSMENT IN THE CRIMINAL JUSTICE SYSTEM

1) The Committee recommends that Maine risk assessment practice be updated to include the changes and improvements supported by current research. We recommend that the risk assessment process in Maine include one of the validated, evidence-based tools now available in order to conform with current best practice. Such tools can predict which cases of domestic violence have an increased likelihood of future violence and require more careful monitoring or intervention by the justice system, as well as lead to more effective resource allocation.

   “Today our knowledge has vastly improved. After decades of experience managing offenders and analyzing data, practitioners and researchers have identified key factors that can help predict the likelihood of an individual returning to crime, violence or drug use. The instruments that have been developed … to measure the likelihood of future criminal behavior can help officials to better identify individuals at a high risk of re-offending…and target interventions to reduce recidivism, improve public safety and cut costs.” PEW Center Public Safety Performance Project.1

2) The Committee recommends use of the ODARA (Ontario Domestic Abuse Risk Assessment) instrument in the criminal justice system. The ODARA, a validated, evidence-based tool, was developed to be completed by law enforcement, relying on criminal records and the results of a DV investigation, to predict likelihood of re-assault by male offenders against female (current or former) intimate partners. The higher the score the greater the likelihood that someone with that score would reoffend; for example, offenders in the highest ODARA risk category (those who scored 7-13 points) were 14 times as likely to recidivate as offenders in the lowest risk category (those who scored 0 points). In addition, the ODARA also predicts time until a new assault, number of new assaults, and severity of new assaults. Its predictive accuracy of 77% is the best there is in validated, evidence-based DV risk assessment tools without involving tools requiring clinical expertise. To score the assessment takes approximately ten minutes by experienced users; it may be scored with up to five items missing. Several options exist to train officers to use the instrument.

   “The ODARA has a high predictive accuracy for spousal re-assault compared to other tools (a ROC area of .77). This is higher than for any assessment tool that does not use [clinical tools]. [The developers] also note that the ODARA scores are related to frequency, severity and rapidity of wife re-assault……In concluding which tool may be most accurate in a police setting, the ODARA would appear to

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have the most support in the literature as a tool to predict family violence recidivism.”

[T]he ODARA also predicted time until a new assault, number of new assaults, and severity of new assaults; no other DV risk instrument has a documented ability to do all this.” Evidence-based Risk Assessment of DV Offenders. 3

3) The Committee recommends that law enforcement officers collect the information necessary to complete the ODARA at the initial call and score the ODARA, even if the initial information is incomplete. Results should be made available to bail commissioners and prosecutors, as well as relayed to victim advocates consistent with existing law enforcement/DV resource center agreements for information sharing. Verification of the information used in the assessment should be accomplished within a reasonable time period. This allows the direct observations of the officer at the scene to be carried forward in standardized form to decision makers, such as bail commissioners, who often no longer interact directly with that officer, as well as carrying that law enforcement evaluation to prosecutors and judges. The Committee also recommends that officers be “held harmless” for any difficulties they might have in completing the ODARA.

Maine Bail Commissioner trained in ODARA: it is “a very useful tool – so simple, so wonderful- because it provides a common language to assess risk.”

Maine prosecutor: “I used it in a bail argument….ODARA indicated high potential for recidivism. I used that information successfully argue against the bail motion. …I believe we need to rely on this type of validated testing more in DV cases.”

“[E]mpirically based risk assessments are now routinely used in making bail decisions in many jurisdictions.”

ODARA “offers front-line personnel an easy to use actuarial tool that shows promise as a guide for interventions to reduce the incidence of repeated domestic assault. This study suggests that the ODARA could be used by the judicial branch to help increase predictive accuracy and help identify candidates for more intensive supervision through the judicial monitoring program.”

4) The Committee recommends that risk assessment tools should be used in the settings for which they are designed and should be precise in what risk is being assessed. The

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Committee focused its research and ultimately these recommendations on the criminal justice system. The ODARA tool was developed for use by law enforcement to assess risk of re-assault and includes objective elements as well as victim reports. It is important to note, however, that the use of other risk assessment tools by the advocacy or medical communities may be indicated. The existence of two risk assessment tools, one for criminal justice and another for medical and advocacy interventions, is not a problem; in fact, this approach provides each setting with a site-specific, best practice tool.

“There is no one-size-fits-all risk assessment tool. Agencies frequently employ multiple tools to inform decision-making at points throughout the criminal justice process.”

5) The Committee recommends that the “Bail Commissioner Information Form” list of “risk factors,” referenced in the Model Domestic Violence Policy most recently adopted by the Maine Chiefs, be updated to include the evidence-based, predictive ODARA factors. The list of factors outlined in the Bail Code, section 1026 should also be amended to add the results of an evidence-based, validated risk assessment tool as one factor to be considered in determining whether a defendant poses a danger to the safety of others in the community.

“An enormous amount of research in many different fields has demonstrated over and over again that informal or guided professional judgments...are of limited accuracy and are almost always inferior to strictly statistical (often called ‘actuarial’) risk assessments.”

“One of the most consistent findings from a review of the literature on offender risk assessment is that evidence-based actuarial [strictly statistical] measures are more accurate in the prediction of offender...recidivism than professional, clinical judgment. Unfortunately, the research also shows that many practitioners still rely on subjective, professional opinions and poorly validated assessment instruments....The assessment of offender risk should include objective, actuarial measures. Continued reliance on subjective, professional or clinical judgment to gauge risk is no longer empirically defensible.”

6) The Committee recommends that post-conviction, the Department of Corrections should be guided by the 2009 American Probation & Parole Guidelines about risk assessment. These Guidelines provide that in addition to the use of general risk assessment, the use of specialized tools in domestic violence cases is required for best practice with the higher level of assessed risk predominating in their decision making.

2009 American Probation and Parole, Community Corrections Response to Domestic Violence: Guidelines for Practice: The Guidelines for case investigation

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6 PEW Center Report, p. 5, at note 1.
7 Moyer, p. 4, at note 3.
recommend that: 1) Community corrections professionals “identify and investigate for the presence of known risk factors for domestic violence re-abuse and danger”; 2) If a standard risk assessment instrument is used in the agency, protocols are in place to “override scores based on the presence of domestic violence risk factors that indicate higher risk.”

7) The Committee recommends that polices, training, and method of implementation of the use of risk assessment by law enforcement should be developed by the Maine Criminal Justice Academy. Based on conversations with the developers of ODARA, the Maine Criminal Justice Academy could be approved as a training agency for ODARA to grant a Maine specific certification. The MCJA could then identify the ODARA training as one of the state mandated trainings for the year 2014-2015. In the year preceding, the MCJA would work with the appropriate partners in setting standards and policy for use of risk assessment, using the existing curriculum provided by the ODARA team to develop a Maine specific training curriculum with options for on-line and in-person trainings. Training could be accomplished sooner than 2014-2015 year, but at a cost that would not already be built into the 2014-2015 expected MCJA budget. Training about risk assessment in general and ODARA will also be needed for other decision-makers in the criminal justice system.

8) The Committee recommends that risk assessment tools be used as “one tool in a toolbox,” to provide context, guidance as to what questions should be asked, and for help in thinking through the dynamic elements of a particular case, to compare it to known cases that resulted in repeat and more serious assaults. Risk Assessment tools “cannot predict an individual’s behavior with 100% accuracy; however, objective tools more accurately predict behavior than subjective assessments by individuals. They can help guide decisions, but professional discretion remains a critical component.”

Best Practices for Intervention in the Criminal Justice System
The Committee recognizes that once either an offender has been identified as “high-risk” for re-offending, or a victim as at risk for lethal assault, the next question becomes what is the appropriate intervention? Each local jurisdiction will have to determine the answer based on the need and available resources. The Committee recommends consideration of the best practices from other jurisdictions outlined below as guidance.

The most effective interventions are integrated High Risk Intervention teams, such as those in Newburyport, NH, and Brockton, MA (see descriptions in Sections IV and V of Committee Report). These multi-disciplinary teams meet on a regular basis to share information, as guided by state and federal statutes, and to review status of the offender or victim identified as “high risk,” with a focus on individualized safety planning and offender accountability. In addition to an integrated team approach, first responders, decision makers, and service providers such as advocates can also intervene in response to a “high-risk” determination, as outlined in the best practices described below and implemented in other jurisdictions.

**Law Enforcement:**
1) Inform the victim of concerns for victim’s safety based on answers provided to assessment questions; 2) Provide victim with written DV Resource Center information (already required by Maine law); 3) Offer to contact local DV agency with victim to speak with advocate either at time of incident or at follow-up visit; 4) Attach risk assessment to incident/arrest report and provide to prosecutor, and attach it to probable cause affidavit required by jails in certain circumstances; 5) Provide risk assessment results to bail commissioners; 6) If no arrest, provide copy of risk assessment and report to DV Advocate pursuant to information sharing agreements; 7) Conduct bail checks on offender; 8) Follow up with victim within 48 hours, accompanied by DV advocate if possible; 9) Ensure victim notified when offender is released from jail (either on bail or after sentence served; this process is already in place in most Maine jurisdictions); 10) Enhance victim security when offender is released through drive-by’s.

**Bail Commissioners:**
Make a good faith effort to obtain risk assessment information to inform bail decisions (release, amount, conditions) before setting bail in domestic violence cases.

**Prosecutors:**
1) Ensure that protocols are in place in each jurisdiction to facilitate delivery of validated risk assessment reports to prosecutors in a timely fashion—ideally part of the initial file in the case and available prior to the bail hearing; 2) If validated risk assessment result is not in the file, VWA should administer; 3) At bail hearings, continue to present the facts which might lead the court to find that the accused is likely to commit further offences, or which indicate the nature of the violence that the accused is capable of inflicting. These will likely include, but are not limited to the same facts that gave rise to the validated risk assessment; 4) Prosecutor or VWA discuss concerns with victim and offer resources and referrals, including community advocate contacts and information regarding protection order; 5) VWA inform local PD about concerns for victim safety, and work with local PD and victim to help implement the safety plan created by the victim and the advocate of the local family violence project, and request local PD take extra precautionary measures (drive-by’s, well-being checks); 6) If offender is in court, plan for safe exit for victim and notify when offender released from jail; 7) VWA notify victim of offender’s conditions, Probation Officer contact information; 8) Charge highest level of offense possible for new crimes; 9) Track offender activity (through Probation/III checks); 10) When offender has a case at another court, contact prosecutor’s office and send copy of entire file.

**Advocates:**
1) Discuss concerns with the victim; 2) Develop personalized safety plan together with victim; 3) Discuss risks and alternatives with the victim and advise of possibility of speaking to police (and assist if requested), especially if new crimes disclosed; 4) Explore with the victim the option of discussing the case with police or DA; 5) Assist victim in securing safety (researching shelter, creating personalized safety plan); 6) Discuss how to obtain protection order, and assist with process; 7) If victim is returning home with offender and/or is remaining in the relationship, create a detailed, personalized safety plan with victim, exploring all available options and explaining that leaving may
be a dangerous choice; 8) Support the victim’s choices and let victim know the agency will provide help in accessing all available resources; 9) Discuss consent for referral, sharing of information with High Risk Response team; 10) Heighten awareness, services and safety planning with high-risk victims.

NOTE: Advocates may be using a different evidence-based risk assessment tool that focuses more on the victim to assess risk of lethality.

**Court:**
1) Emphasize that criminal proceeding is between the defendant and the state, not the defendant and the alleged victim; 2) Consider issuing “no contact” orders (bail or protection orders) that clearly prohibit all contact with victim; 3) If no-contact order issued, court should consider removing the defendant from shared premises; 4) Consider requesting a presence by police to allow the defendant to retrieve belongings; 5) Consider economic support for victim/children as probation condition, re-enforced at Judicial Monitoring sessions; 6) Consider assertive safety measures such as appropriate bail and conditions, seizure of firearms; 7) Use heightened community supervision, pretrial services when available to monitor bail conditions, and Judicial Monitoring; 8) Consider electronic monitoring in appropriate cases, using risk assessment to identify potential candidates for this intervention; 9) Inquire whether defendant is subject to a protection order (or have procedures in place for clerk to search records for high risk offenders for related, prior cases); 10) Consider the need to preserve the confidentiality of information that identifies the victim.

**Corrections: Probation:**
1) Supplement generic LSI-R with ODARA, DV specific evidence-based validated RA tool); 2) If a standard risk assessment instrument is used in the agency, ensure protocols are in place to “override scores based on the presence of domestic violence risk factors that indicate higher risk;” 3) If offender required to attend BIP, ensure that BIP facilitators have access to the RA score. BIP Program standards require offender to supply police reports. Not all BIP participants are on probation. The risk scores, not the instrument, can be provided; 4) Work closely with police to quickly serve DV probation warrants; 5) Request incarceration of high-risk offenders at probation revocation.

**Jail:**
1) Block calls to victim when requested, record calls by offender; 2) Monitor for and take appropriate action if victim is being contacted by third party phone or mail; 3) Convey risk assessment information to bail commissioners.

**Special Populations:** Ensure that representatives from special populations (including refugee and immigrant groups, tribal nations, deaf and hard of hearing) participate in the High Risk Response Teams to develop culturally and linguistically sensitive responses. Most risk assessment instruments have been developed in English and “may have excluded the experiences of different ethnic or minority groups. This may have introduced a bias into the development of these tools” which could then influence the effectiveness of using risk assessment tools with these groups.”

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III. Reports from Maine Stakeholders about Current Risk Assessment Practices:

A. Law Enforcement:

*Maine Domestic Abuse Model Policy, Maine Chiefs, 2011*

The model policy includes instructions for the bail commissioners to complete the Bail Commissioner Information Form (BCIF): Domestic Violence on the defendant that includes the defendant’s previous history, the relationship between the parties, and the name of the victim. The information on the BCIF “shall be provided to the bail commissioner” prior to the BC setting bail. (standard 13). The BCIF includes a list of 13 “risk indicators.” See Appendix B for BCIF, developed in the early 2000’s. There is consensus that the Bail Commissioner Information form that is part of the Chiefs’ Model DV Policy should be revisited.

Comments by law enforcement officers about the use of a formal risk assessment tool include:

- "ODARA is successfully being used within my agency …and with victims, who have said, ‘I didn’t realize how much danger I was in.’ But it has not worked externally, because of lack of buy-in by prosecutors.”

- Some departments are using ODARA to set up priority lists for bail checks, and to prioritize victim follow up.
- Sagadahoc County DVI uses ODARA on selected cases, generally for sentencing.
- Oxford County DVI is certified in ODARA and wants to use it but so far does not.
- Saco PD has been trained in ODARA, and has been using ODARA for the last 14 months on every male to female DV assault; officers complete the assessment on-scene. They are using this to inform bail commissioners (1 out of 7 are interested in this number). It provides a common language, and a way to allocate resources. The ODARA scores are forwarded to the DA Office and being used selectively, and similarly by the local judiciary (one local judge has been educated on ODARA).
- York PD: “It was a futile undertaking on our part; the prosecutors here were not referencing it because their Judges were not taking it into consideration…I would not reinstitute it [ODARA] without an across the board commitment from Justices to ADA to LEO and DV support groups, it just would not make sense.”
- Portland PD received brief training on the nature of risk assessment, and how officers can help by including certain information in their reports.

B. Bail:

Risk assessment is essentially conducted informally on every DV offender by bail commissioners when they set bail. Some of the jail intake forms list “risk factor” information for DV cases, based on the original Bail Commissioner Information form (BCIF) developed by the Maine Criminal Justice Academy with the assistance of the DV community, and currently an appendix to the Maine Chiefs Model DV policy. Bail Commissioners in Maine have been trained that Best Practice for setting bail in DV cases is to consider whether the following risk factors are present; these factors are listed on a “Best Practices” card distributed in at least two trainings, one in 2011 and one in 2008. 1) Threats to kill self/others/pets; 2) Weapons – use/threats/access; 3) Stalking; 4) Escalation of violence/frequency; 5) Extreme jealousy/obsessiveness; 6) Alcohol/drug use; 7) Sexual violence; 8) Depression/mental illness; 9) Victim pregnant; 10) Assault occurred in public; 11) Domestic violence history.
Concern has been raised, however, that bail commissioners are not receiving criminal history before being asked to set bail. They may be receiving “local history,” (i.e., whether the suspect has history with a particular local jurisdiction or jail), but not statewide (SBI or CHRI) and especially not III (national criminal history data).

One Bail Commissioner trained in ODARA, considers it a very useful tool – “so simple, so wonderful”- because it provides a common language to assess risk. Concern was raised about whether risk assessments studied for validity over long periods of time are still predictive for shorter terms of release on bail. The ODARA developers report that because higher scoring offenders represent more substantial risk; short-term risk is also more likely if an offender higher risk overall. The creators also note that higher scoring offenders represent more substantial risk for bail violations.

ODARA tested with 150 incarcerated male offenders followed for an average of 8 years. ODARA predicted domestic violence recidivism significantly better than a general risk assessment, the LSI, and in follow-ups as short as 6 months. The ODARA also predicted recidivism severity. Hilton & Harris, Risk Assessment Among Incarcerated Male Domestic Violence Offenders, Criminal Justice and Behavior, Aug. 2010:

C. Pretrial: Maine Pretrial Services staff are trained to administer the ODARA risk assessment instrument, which is required to be administered on all pretrial DV cases prior to a release decision. MPS staff also use a general validated Pretrial Risk Assessment (based on Kentucky model described below), of which the purpose is to gauge flight risk.

D. Prosecutors:
Mixed responses have come in from a request of prosecutors about their use of risk assessment tools. Some of the prosecutors understand risk assessment (the likelihood of recidivism), and others confuse it with prevalence. RA may be seen by prosecution as a constraint; low scores may also be of concern. It is important to understand that risk assessment is one piece only, something that can be part of a tool box. It would be a major practice change to mandate a particular risk assessment tool, although risk assessments are being used in pre-trial release, and for pre-sentence reports.

Two approaches:
1) ADA report 1: “I used it in a bail argument. Defendant wanted contact with victim. Bail had allowed contact with their kid but he wanted full, unrestricted contact. He has a prior DV conviction out of state with another victim so he is charged with Class C…. ODARA indicated high potential for recidivism. I used that information to successfully argue against the bail motion. Justice had no problem accepting the ODARA analysis. The DVI trained in ODARA presented the information to the court. “I believe we need to rely on this type of validated testing more in DV cases.”
   ADA Report 2: ODARA reoffend rate is based upon official records, which are not the most reliable method of determining re-offending, since many victims will not report again.78% above the bar is not statistically significantly higher than other risk assessment studies. 78% still leaves a significant margin of error and I believe that recommendations made by prosecutors and decisions made by judges are as accurate or better 78% or more of the time. ODARA was designed to be utilized in male on female intimate partner
cases only. Many of our DV cases include children. Although women represent only 20% of offenders, this is statistically significant and the number appears to be rising. Furthermore, homosexual relationships between adult partners are excluded. Some of the well known and established risk factors are irrelevant from the perspective of ODARA, like abusing pets. Some factors included in ODARA are so general as to be irrelevant - for example, if the victim has a child by a different partner, that’s one point, irrespective of that child is a toddler living with her or an adult living 1500 miles away. This distinction matters in real life, but not in ODARA. Another example is whether the defendant has had a prior sentence of 30 days or more. What if a defendant has several sentences less than 30 days? no points. What if defendant has multiple sentences in excess of 30 days? One point. Another problem - facts of the case are irrelevant (unless the victim is pregnant, confined or threatened.) The legislative proposal requires that a criminal history be available and examined before a bail decision can be made - criminal histories are not available, not complete, and not easily readable. The current thinking is that police officers will administer ODARA. Police officers are already at a tipping point and they do not have surplus time to track down all this information. If this tool is administered by police officers, it will be at the sacrifice of other duties. The legislative proposal also contemplates that ODARA will be but one tool in an informational arsenal designed to enhance decision making. The reality is that courts are overloaded and I fear that the ODARA score will be used as the primary source of information. It will be extremely difficult for a prosecutor to convince a judge to set high bail in a case where there is a low ODARA score, even where the prosecutor knows that the defendant poses a high risk to the victim and to public safety. 13 yes or no answers should not be a substitute for judicial critical analysis. Accurate, complete, readable and accessible criminal history information would inform the analysis of all decision makers - bail commissioners, prosecutors and judges - not only in DV cases but in all cases where victim and public safety is a concern.

Victim-Witness Advocates (VWAs) in Prosecutors Offices:
-One VWA uses ODARA on a consistent basis with victims. Her office uses it for bail arguments. It is a “great way to get additional information … more background information from victims earlier on” to be used for safety planning.
-Approximately 20 VWAs were trained in ODARA at the Prosecutor’s Conf. in 2010. Kennebec County DA Fowle also reported that VWAs in his office will be trained to administer ODARA.
-York County: “I am preparing ODARA scores…ODARA is a superb measurement tool & very accurate. It is unfortunate it is not used more, and the judges do not ask about it.”

E. Advocates:
Family Crisis Services members report that they are not currently using a specific risk assessment instrument. They do use lethality assessment in the context of a safety assessment. Julie Colpitts, MCEDV Executive Director, noted that ODARA has now been validated as a lethality assessment instrument as well as assessment of risk of recidivism. Statewide coherency is important to MCEDV as this work goes forward. Caring Unlimited has several advocates that have been trained in ODARA. It is rarely used. They are starting a high risk response team. Some sort of risk assessment will
need to be used in order to trigger the HRR Team. An advocacy project attorney expressed concern that use of risk assessments may result in unintended consequences for victims involved in Child Protection and Family Matter custody issues. Region advocacy organization directors report they are “all across the board” on use of risk assessment tools. Delaware is using the Maryland model, primarily to inform outreach for victim services. The high intensity team in Newburyport is using a hybrid RA (and also GPS monitoring). They are thinking of moving toward a more validated method. Their police are using it at entry points, and to allocate resources. Use of a risk assessment tool does increase a shared understanding of risk, and a common language. Everyone is using RA as one tool in a larger context. The gender question is one that folks are struggling with across the region.

MCEDV resource centers report varied experience, dependent in part whether there is a BIP program attached to the resource center. All say they are using risk assessment, but in a more intuitive way, and are not using validated instruments. The DV community initially put the risk piece into the systems, but this was prior to any validated or actuarial instruments. It may be important for advocates to return to their allies, and explain that this new look at risk assessment is welcome, and that they are not being “disloyal” to consider adopting more evidence based tools.

F. Court:
At a 2011 conference sponsored by the Maine Judicial Branch, focused on Risk Assessment and Judicial Monitoring, Dr. Grant Harris, one of the developers of ODARA, was asked to present an overview of the ODARA instrument for 150+ participants. The discussion focused on how risk assessments can lead to more effective resource allocation, such as determining which offenders might be appropriate for such programs as judicial monitoring. It was clear that ODARA or other risk assessments would not be appropriate in adjudicatory proceedings to determine guilt, but may be useful in bail or sentencing phases.

In one jurisdiction, ODARA is currently administered post conviction, at the request of the judge overseeing the Judicial Monitoring process.

G. Corrections/Probation:
Maine jails are not currently mandated to have a standardized risk assessment tool. No one is using a validated RA tool, but all jails have intake policies. Any changes could be made through the Maine Chiefs Model Policy (SOP) or through the Jail Standards. York County is requiring that the arresting officer make a call to the bail commissioner in case there are clarification questions. This was seen as an excellent idea. Use of risk assessment tools by Probation Officers in DV cases was reported as a “mixed bag” around the state. Six Probation Officers are currently using ODARA. The dedicated DV Probation Officers are using ODARA to help determine level of supervision. The LSI-R has been used for some time by Probation on most offenders; focus at the Department of Corrections is on evidence-based instruments.

In 2006, Robert Moyer, Ph.D. Emeritus Prof. of Psychology, Bates College, presented the following paper to the Maine Dep’t of Corrections, Adult Community Services, and to

He explained that the most common way of doing a DV risk assessment is to rely on professional judgment, using the “risk factors ‘in their heads’” or a check list. However, “an enormous amount of research in many different fields has demonstrated over and over again that informal or guided professional judgments of this type are of limited accuracy and are almost always inferior to strictly statistical (often called “actuarial”) risk assessments…. ’Continued reliance on subjective, professional or clinical judgment to gauge risk is no longer empirically defensible.’”

Dr. Moyer identified the three best DV risk assessments, based on overall accuracy of predicting reoffending, cost, ease of use, and availability of information to do the assessment. The Ontario Domestic Assault Risk Assessment (ODARA) was found to have the highest overall predictive accuracy, at 77%, significantly better than the SARA (Spousal Assault Risk Assessment- a clinical not actuarial tool), the DA (Danger Assessment) (64%), and the LSI-R (73%). “The higher the ODARA score, the greater the likelihood that someone with that score would reoffend.” Dr. Moyer recommended use of one of the validated DV risk instruments, that risk should regularly reassessed, and the risk assessments should be shared to the extent possible with other criminal justice personnel and victim services.

As a result, ODARA developers were invited to Maine for a one-day training of criminal justice system stakeholders, and subsequently for a three-day training of 20 “train-the-trainers.”

In August 2008, researchers from the Muskie School of Public Service at the Univ. of Southern Maine published, “An Evaluation Comparing the Effectiveness of Two Evidence-Based Risk Assessment Tools for Domestic Violence Offenders.” They concluded that, ODARA “offers front-line personnel as easy to use actuarial tool that shows promise as a guide for interventions to reduce the incidence of repeated domestic assault. This study suggests that the ODARA could be used by the judicial branch to help increase predictive accuracy and help identify candidates for more intensive supervision through the judicial monitoring program.”

In 2009, the Department of Corrections was requested to convene a working group to establish a process to assess dangerousness and more effectively monitor those who commit domestic violence crimes pursuant to a Resolve passed by the 124th Legislature. LD 567 as amended. (LD 567 originally provided that if a person is charged with certain DV offenses, the court “shall order an assessment of the dangerousness of the defendant to identify risk factors for a future assault; act of abuse, harassment or violence; violation of bail or protective order; or homicide and to recommend appropriate bail conditions to protect the safety of the victim and the administration of justice.”)
The group was asked to submit a report to the Joint Standing Committee on Criminal Justice and Public Safety in 2010. A report was provided in March 2010, but focused primarily on GPS monitoring.

H. Custody Evaluators:

ODARA training was provided at the annual meeting of MEGALI, the association of Maine Guardians ad litem. One GAL subsequently reported that ODARA was being used to assess a parent in a case involving domestic abuse. “It helps me think about how much physical contact I want the parties to have as they co-parent their child. And what
treatment, if any, I think the predominant aggressor might need to reduce the risk of what appears to be a fairly significant likelihood of another incident. It certainly will guide us more in the questions we ask about DV when it is alleged.”

I. Use of Risk Assessment in Diverse Populations:
While research has revealed that members of immigrant and refugee communities have higher likelihood of DV incidents, there is no information on the likelihood of recidivism. There are also no validated tools for ASL users. It is problematic because there are not specific signs for some key words. Currently there is research being done to look at using risk assessment with the deaf/hard of hearing community. At least one of the more recent review articles on Risk Assessment tools noted the concern raised in the Commission Task Group that most of the risk assessment instruments have been developed in English and “may have excluded the experiences of a different ethnic or minority groups. This may have introduced a bias into the development of these tools which doesn’t take account of the experiences of these groups of women. This may then influence the effectiveness of using risk assessment tools with these groups.” The research (quoting Neil Websdale) also suggests that women of color, when asked detailed questions, “‘may be particularly reluctant to disclose personal information to advocates, police, or other criminal justice personnel.'”

When questioned about this topic, the ODARA developers report that research has shown that “the strongest predictors of violent behavior are the same regardless of demographic characteristics.” Cross-validations of ODARA are “consistent with this body of research.” The ODARA predictive value was confirmed in samples from the Greater Toronto Area, Canada’s largest and most ethnically diverse metropolis.

It should also be noted that most risk assessment tools, including the ODARA, have been developed and tested with heterosexual samples. ODARA protocols recommend its use only in cases of male-to-female partner (or former partner) violence. It is currently being tested for use in same-sex relationships, but has not yet been validated for use in these cases. It has been reported that the existing validated Danger Assessment has been revised to form an 18-item Danger Assessment-Revised (DA-R), to assess for re-assault in abusive female same-sex intimate relationships, with testing results forthcoming.

IV. Risk Assessment Practices in Other Jurisdictions:
A. Law Enforcement:
Maryland: Lethality Assessment Program-Maryland Model (LAP).
The LAP, based on components of the Campbell Danger Assessment, is a multi-pronged intervention program that identifies victims of DV who are at risk of being seriously injured or killed by their intimate partners and immediately connects them to the DV service provider in their area. The process involves a simple, user-friendly 11-question lethality screening tool and an accompanying response and referral protocol. LAP can be

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used by law enforcement officers and other first responders as well as by professionals in many disciplines.
If a victim screens in at “high danger,” the screener immediately makes a phone call to
the local 24-hur DV hour hotline to seek guidance and encourages the victim to speak with the hotline worker as well.
In Maryland, most law enforcement agencies, and some hospitals, social services, faith
communities, and CCR agencies in two counties, are using the LAP. LAP has been
implemented in jurisdictions in: DE, FL, GA, IN, MN, MI, ME, NJ, OK, OR, VT.

**Nashville Police** (Guide developed by NY State Office for Prevention DV): A Guide to
DV: Risk Assessment, Risk Reduction, and Safety Plan:
“There are a number of currently available risk/danger assessment instruments, including
some sophisticated computerized models. What these tools do is help us think through
the dynamic elements of a particular case, and compare it to known cases that resulted in
serious injury or death. In a sense, they serve an important “coaching” function, in that
they remind us to do a through investigation and analysis of the significant elements
of a case. What they cannot do is predict the behavior of any given individual. The single
best predictor of future violence behavior continues to be past violence, and we cannot in
any absolute sense, predict lethality or serious injury. The best we can do is evaluate
comparative risk, and attempt to safeguard against identified dangers.
The other thing they cannot do is help us really enter into the world of battered
victim’s problem solving. Avoiding serious injury or death is certainly the most
dramatic aspect of a domestic violence intervention strategy. But once we understand
domestic violence as a problem of coercive control rather than simply as a problem of
assault behavior, we are forced to broaden our concept of risk assessment. Like battered
victims, we then need to conduct a thorough analysis of the complex package of
physical, legal, economic, familial, social and emotional risks faced by the victim, and by
those she/he feels bound to protect.”

**ODARA:** The Ontario Domestic Assault Risk Assessment (ODARA).
(www.mhcpresearch.com/odarasum) was developed by N. Zoe Hilton and Grant Harris
at the Penetanguishene Mental Health Centre, Ontario, Canada. ODARA was developed
in response to a murder-suicide in Ontario in 1998. It is an actuarial risk assessment for
use by police that calculates how a man who has assaulted his female partner ranks
among similar perpetrators with respect to risk. It also calculates the likelihood that he
will assault a female partner again in the future. The 13 ODARA items include domestic
and non-domestic criminal history, threats and confinement during the index incident,
children in the relationship, substance abuse, and barriers to victim support. Only the
characteristics that strongly and independently predict recidivism are included in the
ODARA. It predicts recidivism more accurately than any other risk assessment tools
(predictive accuracy 77%), and uses information available to officers responding to a
domestic call. It was developed using about 600 cases over 5 years; the project has now
studied about 1500 cases of DV assault and been cross-validated. The ODARA was
developed to be completed by law enforcement, relying on criminal records and the
results of a DV investigation.
Offenders in the highest ODARA risk category (those who scored 7-13 points) were 14 times as likely to recidivate as offenders in the lowest risk category (those who scored 0 points). In addition, the ODARA also predicts time until a new assault, number of new assaults, and severity of new assaults.

**Note:** ODARA is used in U.S., Canadian and other jurisdictions: Ontario, Alberta (RCMP), Saskatchewan (Province-wide); Oregon (adopted state-wide); New Brunswick-province-wide; Newfoundland & Labrador- provincial DV courts; NW Territories: territory-wide in all sectors; Nova Scotia- province-wide by all policing services. In Illinois, probation services in several circuits are using ODARA, and it is being used in parts of California, Indiana, Kentucky (in addition to Maine). New Zealand Police have now endorsed the ODARA tool for all of its frontline staff.

**B-Safer:** The B-SAFER (Brief Spousal Assault Form for the Evaluation of Risk) was developed by the authors of the SARA in response to requests for shorter risk assessment tools that take less time to administer. The B-SAFER has ten items based on the SARA tool (derived by factor analysis). It has been piloted in Canada and Sweden, but is not yet validated. The construction and use of shortened versions of risk assessment tools is a concern, because once the tool has been changed, it no longer retains the validity attached to the full version.\(^\text{13}\)

**B. Prosecutors:**

*Nova Scotia Public Prosecutors (Crown Attorneys): 2009, Use of ODARA*

Practice Note: All Prosecutors are aware that “an alarmingly high number of spousal – partner incidents have escalated into cases involving serious injury or homicide. When investigating these incidents, it is often difficult for police officers to determine whether or not an apparently minor incident is indeed minor or is the “tip of the iceberg” in a pattern of escalating violence which requires more drastic intervention and monitoring. This difficult issue has been explored at public inquiries in several provinces. Social science research has determined that there are certain indicators which might be utilized by investigators to predict which cases of spousal-partner violence have an increased likelihood of more serious violence in the future….

These public inquiries led to recommendations that assessment tools be developed to assist in “determining whether or not a particular incident requires more careful monitoring or intervention by the justice system.” **ODARA is the “first empirically tested and validated DV risk assessment tool”** to assess risk of future wife/partner assault, as well as the frequency and severity of these assaults. As a result, police forces across Nova Scotia “are now mandated” to use ODARA and to prepare a report for the assistance of prosecutors in all cases of spousal-partner violence.

**Protocol:**

1) Prosecutors should ensure that protocols are in place in each jurisdiction to facilitate delivery of ODARA reports to prosecutors in a timely fashion- ideally

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part of the initial file in the spousal violence case and available prior to the bail hearing.

2) **The primary use of ODARA is to assist prosecutors in determining which cases of spousal – partner violence should be given special attention.** …Some cases in which the score is lower than 7 may also be designated for special attention, if, in the opinion of the prosecutor, there are indications that the danger of recidivism is high.

3) ODARA reports are not admissible as evidence unless an expert witness is called who can interpret the report and express an opinion in regard to its validity as a predictor of behavior.

4) At bail hearings, prosecutors should continue to present the facts which might lead the court to find that the accused is likely to commit further offences, or which indicate the nature of the violence that the accused is capable of inflicting. Usually, these will “be the same facts that gave rise to the ODARA score.”

5) Prosecutors should review the ODARA report to determine whether or not it provides a basis for requesting a psychological assessment of the accused by a professional.

**Brockton Safety First Model:** This project was developed by the Office of the District Attorney to hold high risk offenders accountable due to a high incidence of domestic homicide. A risk assessment based on professional judgment was developed by the team, which assesses both likelihood of lethality and re-assault. The initial list of “Safety First” offenders was selected based on a two year incident analysis. Law enforcement officers administer the risk assessment tool, and if one is not presented to the DA’s Office, the VWAs administer it. The project goal is to implement a risk assessment tool to be used in every instance a victim of DV seeks assistance. This includes implementing the use of the tool by police, prosecutors, victim-witness assistants, advocates, probation, and staff of the Sheriff’s Office.

The Safety First Team meets monthly to review the status of each offender, and share information. They have developed protocols for each sector (police, DA, probation, etc.) on dealing with offenders identified high risk by the “Safety First” team.

**Vermont Commission:** Council shall provide assistance in developing effective response to DV, including work with the department of state’s attorneys and corrections to develop recommendations for risk assessment with DV offenders.

**C. Advocates:**

**Newburyport NH High Risk Team Model:** Led by the local family crisis center, the team selected a model that was evidence based, multi-disciplinary, and had an equal focus on offender accountability and victim safety. They wanted a vehicle for communication among disciplines to provide the best possible response to victims at high risk. The primary goal was homicide prevention, with the secondary goal being to spotlight gaps in the system.

The Risk Assessment tool is based on the Campbell Danger Assessment and the LAP (described above) and helps them to look beyond the incident to its context, often critical in domestic violence cases.
The High Risk Team members meet monthly, accept cases by vote, share information about the offenders selected, and develop individual intervention and safety plans. Since inception six years ago, 106 cases have been handled by the team, resulting in 0 deaths and a 72.7% guilty plea rate.

**Collaborating with Victims to Assess Danger and Strategize for Safety**, Connie Sponsler-Garcia, BWJP presentation, Oct. 2011, DV Danger Assessment and Risk Management Training: Use of risk/danger assessments with victims can help to develop more effective safety plans, in conjunction with trained victim advocates. They can provide another “lens through which victims may view themselves, their batterers and their situation.” In one study of 509 women, 74% of victims accessing shelter scored in severe or extreme danger levels on the Danger Assessment, and these victims were found to become motivated to change their situation, and were much more likely to ask for help from police, the shelter and child welfare.

In addition to risks from the batterer, it is also important to consider risks generated by “social/life” and by the intervention itself. A risk assessment tool does not tell the “whole story, but helps to gather the right information.” And it is important never to tell a victim of domestic violence, “you are safe.”

Pet abuse is not a statistically significant factor in predicting lethality.

**Questions to ask regarding risk assessment**: What is the goal of administering a risk assessment tool? Who benefits? Who conducts it? Who has access to the results? What data is available to support the RA at the assessment point – and is it adequate? Are there some factors that are static, and some dynamic? In addition to a RA tool, are there items sufficient on their own to compel an evaluator to conclude that an individual poses a high risk of harm? For example, a victim who was assaulted or threatened with a firearm is 20 times more likely to be killed than when a handgun was not used; prior attempts to strangle and a history of forced sex means the victim is five times more likely to be killed.

**Campbell Danger Assessment**: Danger Assessment Scale (DA), Jacqueline Campbell, Johns Hopkins Univ., (www.dangerassessment.org). This tool was developed initially in 1985 to predict likelihood of lethal wife assault, for use in a health care environment, and is one of the best known DV risk assessment tools. The DA now consists of 20 questions, which victims answer yes or no. Questions include substance abuse, gun ownership, partner jealousy, recent separation, victim fears, child not the offender’s, victim assaulted while pregnant. Various versions of the DA are now used in a variety of settings: by first responders (see LAP discussion above), social workers, DV advocates, and investigators and prosecutors in assessing charging decisions. It was empirically validated in 2003.

**D. Court:**

**Minnesota**: Minnesota requires a risk assessment of a domestic violence offender before sentencing. Minn. Stat. § 609.2244 (2009) ("A presentence domestic abuse investigation must be conducted and a report submitted to the court by the corrections agency responsible for conducting the investigation...") Risk assessments are also routinely used in sentencing in Colorado, Connecticut, Delaware, Nebraska, and Vermont, as well as in Canada. Hitt & McLain, “Stop The Killing: Potential Courtroom Use Of A
Questionnaire That Predicts The Likelihood That A Victim Of Intimate Partner Violence Will Be Murdered By Her Partner,” 24 Wis. J.L. Gender & Soc'y 277, n. 95 (Fall 2009).

**Minnesota:** DV Risk Assessment Bench Guide lists a series of factors that “can indicate elevated risk of serious injury or lethality …. The absence of these factors is not, however, evidence of the absence of risk of lethality.” Produced by the Gender Fairness Implementation Committee, 2009. It is recommended that the judges communicate to practitioners that they “expect that complete and timely information on these factors will be provided to the court.”

**Washington:** There is a bill pending that would require that the Administrator of Courts provide access to a risk assessment tool developed by the Washington State Institute of Public Policy, to research, evaluate, monitor, and report on the validity of this RA tool, and report every two years on the validity of the tool; the bill requires AOC, among other things, to develop a model form that law enforcement and jails may use to collect information about person arrested or held in custody so that courts have more information at the bail hearing, including any history of domestic violence, protections orders, and input from victims regarding other pretrial release determinants.

**Bail:**

**Ohio:** "Amy's Law," passed in response to the attempted murder of a woman by her former husband while he was free on bail, requires a person charged with certain DV offenses (in possession of weapon, subject to protection order, etc.) to appear before a judge for the setting of bail, and for the judge to use risk assessment factors in making bail or bond-setting decisions. Michael Brigner, Amy's Law: New Ohio Domestic Violence Bail Statute Adds Safety Precautions for Crime Victims and the Public, 18 Ohio Domestic Relations J. 17, 17 (2006) (referencing Ohio Rev. Code Ann. § 2919.251 (West 2006)). See § 2919.251 and Ohio Bail Order in Domestic Violence Cases.

**New Mexico:** The New Mexico Judicial Bench Book: 9.4.2 “Promoting Pretrial Safety in Cases Involving Allegations of Domestic Violence.” lists 27 “lethality factors” that researchers have found to signal potential for serious violence in DV cases. These should be considered in bail decisions under Rule 5-401(B)(4), (“the nature and seriousness of the danger to any person…that would be posed by the person’s release”). “While it is impossible to predict with certainty what a given individual will do, the presence of the [lethality] factors can signal the need for safety precautions- the more of these factors that are present in a situation, the greater its danger.”

**Note:** “There is no longer a question as to whether denial of bail can constitutionally be predicated on violence risk assessments,” and “empirically based risk assessments are now routinely used in making bail decisions in many jurisdictions.” Monahan & Walker, 25 Years of Social Science in Law, Law Hum. Behav. (2011) 35:72-83, 77.
See generally: Hitt & McLain, “Stop The Killing: Potential Courtroom Use Of A Questionnaire That Predicts The Likelihood That A Victim Of Intimate Partner Violence Will Be Murdered By Her Partner”: 24 Wis. J.L. Gender & Soc’y 277 (Fall 2009)

E. BIPS:
Oregon, Marion County: In 2006, this jurisdiction adopted a protocol to enable DV Approved Assessment Agencies to use validated assessment tools as part of Standards for Batterer intervention Programs. The participant’s length of program is determined by the results of using validated assessment tools (such as an LSI-R) and the ODARA or DVI (Domestic Violence Inventory). 48-week sessions (DV Batterer Intervention Group); 24-week sessions (DV Batterer Accountability Group); and 12-week sessions (DV Batterer Responsibility Group).

F. Corrections
Hennepin County, MN: In this jurisdiction, in addition to the LSI-R general risk assessment, probation officers administer the DVSI (specialized evidence-based tool for DV) in all DV cases to structure appropriate intervention, and case classification. If indicated by the DVSI score, the SARA risk assessment tool (clinical tool) is administered. See Appendix D, description of “also-ran” risk assessment tools by R. Moyer. Minnesota also requires that a pre-sentence domestic abuse investigation be conducted and a report submitted to the court in domestic abuse cases. MINN. STAT. § 609.2244 (2009).

Colorado: Colorado's Domestic Violence Risk Reduction Project was tasked with finding screening and assessment tools to assist the criminal justice system with identifying risk levels for domestic offenders. Successes with the Domestic Violence Screening Instrument (DVSI) and Spousal Assault Risk Assessment (SARA) tools have resulted in mandated risk assessment by the Colorado Departments of Probation, which use the DVSI. Rebecca Love Kourlis & Amy Barry Houghton, The Impact of Family Violence on the Colorado Judicial Branch 28 Colo. Law. 13, 13-14 (1999). Colorado statutes require probation officers to complete DV risk assessments as pre-sentence evaluations.

Connecticut: Probation departments in Connecticut use the Kingston Screening Instrument for Domestic Violence (K-SID) to inform their recommendations

Illinois: Action Plan for Implementing Evidence-Based Practice
All caseworkers will use validated actuarial risk/need tools for specialized offender population convicted of sexual, domestic and DUI crimes, and for female offenders and offenders with mental health needs.

2009 American Probation and Parole, Community Corrections Response to Domestic Violence: Guidelines for Practice: The Guidelines for case investigation recommend that: 1) Community corrections professionals “identify and investigate for the presence of known risk factors for domestic violence re-abuse and danger”; 2) If a standard risk
assessment instrument is used in the agency, protocols are in place to “override scores based on the presence of domestic violence risk factors that indicate higher risk.” In other words, the generic LSI-R must be supplemented by the use of DV specific risk assessment tools in DV cases.

**DVRAG:** The Domestic Violence Risk Appraisal Guide (DVRAG) is a new instrument that includes weighted ODARA factors and a standard measure of “lifecourse antisociality” for in-depth assessments. Together the ODARA & DVRAG represent a “coherent system of risk assessment.” A police officer can score the ODARA for use in a bail decision, and a forensic clinician or probation officer can later score the DVRAG to provide an improved assessment to aid sentencing, supervision and treatment decisions. Memorandum from Dr. R. Moyer, September 2008.

According to Dr. Moyer, the DVRAG appears to be the most accurate DV risk instrument now available—for predicting not only whether DV re-offending will occur, but also how soon and how frequently the man will re-offend, how serious the re-offense will be, and how likely he will be to injure the victim. It may be the best instrument to use when trying to “optimally allocate correctional resources and most accurately estimate the future risk to both the victim and the community.” The DVRAG might also guide risk management (e.g., offender monitoring, treatment, and supervision; victim safety planning), because it provides scores for specific items such as a substance abuse scale, characteristics of assault, antisocial lifestyle indicators, victim barriers to support, children at risk, etc.

**G. Use in Custody Decisions:**


This bill provides that the Administrative Office of the Courts shall establish a pilot program in two counties, the purpose of which is to impose a risk assessment requirement, prior to issuing an award of visitation, in all cases where a final DV restraining order has been issued and where the actor and the victim have a child in common and enumerated risk factors are present.

“Risk Assessment” means an assessment of the likelihood that the person against whom the final restraining order is issued will commit an act of violence against the victim or against the child which the actor and the victim have in common, performed by a qualified, licensed professional.

The bill requires that a DV complainant shall, at the time of the filing of the complaint, complete a questionnaire that includes information as to whether the defendant has a child or children in common with the victim; the person has ever used or threatened to use a weapon or has made other threats against the victim or child or committed other acts enumerated in the bill. The completed questionnaire would be attached to the DV complaint and considered by the court hearing the DV matter.

A risk assessment shall be ordered by the court where there has been a violation of a final DV restraining order, and where the court makes a determination regarding parenting time subsequent to a complaint of DV against one of the parents seeking parenting time. A qualified applicant for a risk assessor certification shall be a trained (by “eligible providers”) licensed professional, with 12 hours of basic instruction and annual update
training. Defendants will be responsible to pay for the costs of all ordered risk assessments except costs may be waived in cases of financial hardship.

**H. Culturally Informed Assessments:**

**Oregon BIP Assessment Process:**
The Assessment Agencies must “maintain familiarity with the cultural demographics of its service area(s)” to help the Agency to:

1) Anticipate the various cultural backgrounds that may be represented by participants; and

2) Identify factors within a particular cultural background that influence battering, or that can be used by the participant to excuse the battering or by the Agency to assist the participant in ending battering without using such factors as excuses for battering.

3) Cultural groups are construed broadly to include “gender, sexual orientation, race, religion, and national origin, as well as economic and social groups that are identifiable” within the Agency service area.

4) Culturally specific services “shall be offered to the extent practicable; however if culturally specific services are not available, Approved Assessment Agencies shall offer culturally informed services.”

5) Approved Agencies required paperwork “shall address, in a culturally informed way, the assessment requirements. The paperwork shall avoid cultural stereotyping.”

*Culturally Informed Intervention:* “Pre-service assessment personnel shall document completion of seven hours of training in oppression theory, cultural factors and anti-racism as it related to domestic violence.”

**V. Interventions in Other Jurisdictions For Offender Identified as “High Risk” or Victim at High Risk of Re-assault or Lethal Assault:**

**Plymouth County’s (MA) Risk Assessment Screen Protocol:** This project began with every implementing agency asked to review the risk assessment screening tool and provide feedback on the best method of implementation for their agency. The team also meets on a regular basis to share information, review records and status of offender identified as “high risk,” with a focus on individualized safety planning and offender accountability.

The following outlines responsibilities for each member of the team once the risk assessment has been completed and determination is made that the victim is at high risk and needs immediate assistance:

*Police:* 1) inform the victim of concerns for victim’s safety based on answers provided to assessment questions; 2) inform the victim of free and confidential services available, including DV shelter hotline and Protective Order options; 3) offer to contact local DV agency for victim to speak with advocate (and notify victim agency regardless); 4) provide written information regarding local DV resources; 5) attach risk assessment to incident/arrest report and provide to DA’s Office and department’s Civilian DV Advocate; 6) if no arrest, provide copy of risk assessment and report to civilian DV Advocate; 7) Conduct probation check on offender.
Responsibilities: 1) Keep Safety First offender files in booking area for review after arrest; 2) attend monthly/quarterly team review meetings; 3) visit each offender in jail prior to release to inform re Safety First status, which means increased police observations; 4) follow-up investigations in DV cases.

Advocates: 1) discuss concerns with the victim; 2) develop personalized safety plan together with victim; 3) discuss risks and alternatives with the victim and advise of possibility of speaking to police (and assist if requested), especially if new crimes disclosed; 4) explore with the victim the option of discussing the case with police or DA, Probation, and SO; 5) assist victim in securing safety (researching shelter, creating personalized safety plan); 6) discuss how to obtain protection order; 7) if victim is returning home with offender and/or is remaining in the relationship, create a detailed, personalized safety plan with victim, exploring all available options and explaining that leaving may be a dangerous choice; 8) support the victim’s choices and let victim know the agency will provide help in accessing all available resources; 9) discuss consent for referral to high-risk team.

Responsibilities: 1) Attend quarterly team meetings; 2) heighten awareness, services and safety planning with victims of Safety First offenders.

Prosecution: ADA or VWA will: 1) discuss concerns with victim and offer resources, referrals, safety planning; 2) provide community advocate contacts and information regarding protection order; 3) inform local PD about concerns for victim safety, and work with local PD and victim on a safety plan, and extra precautionary measures (drive-by’s, well-being checks); 4) work with victim on safety options; 5) if offender is in court, plan for safe exit for victim and notify when offender released from jail; 6) contact local PD if new crimes disclosed; 7) VWA will work closely with victim and advocate with securing safety, either in shelter or with personalized safety plan.

Responsibilities: 1) target prosecute offenders for new crimes; 2) track offender activity (through BOP and III checks); 3) update Offender List with new activity; 4) keep Safety First offender files complete and updated; 5) when offender has new charges or protection orders, contact court and request police report/complaint for file; 6) when offender has a case at another court, contact DA’s Office and send copy of entire file; 7) Lead monthly law enforcement and quarterly task force meetings; 8) generate annual reports on offender activity; 9) track victims of offenders with updated victim list; 10) when Safety First candidate is suggested, obtain copies of all police reports and Protection Order files, create offender summary for review.

Probation: 1) collect information from victim and determine if new crime and/or violation of probation has occurred and follow up appropriately; 2) safety plan with victim and/or refer to local advocates; 3) use risk assessment form to take corrective action – either immediate warrant or notice of surrender, depending on RA results; 4) if offender required to attend BIP, send a complete packet to BIP, including police report and RA worksheet.

Responsibilities: 1) supervise Safety First offenders; 2) weekly home victims; 3) work closely with police to quickly serve DV probation warrants; 4) accompany police officers to jail visits when possible; 5) request incarceration of offenders at probation surrenders;
5) request BIP, not Anger Management, and supervised probation; 6) attend Safety First meetings; 7) update DA’s Office regarding any changes in offender’s terms of probation.

**Sheriff’s Department:** 1) Victim Services Specialist will discuss concerns with victim and offer resources referrals and safety planning, including to community advocate; 2) VSS will notify Perimeter Security of concerns re victim and inmate’s probation officer if applicable, and local police when inmate is released to enhance security through drive by’s, etc.; 3) VSS will offer to have staff “speak to inmate” if victim is being contacted by third party phone or mail.

**Responsibilities:** 1) follow Safety First offender policies at House of Corrections; 2) attend Safety First meetings; 3) provide DA’s Office with list of offender End of Sentence dates.

**New Mexico Judicial Bench Book: 9.4.2 “Promoting Pretrial Safety in Cases Involving Allegations of Domestic Violence.”** Suggestions include: 1) Emphasize that criminal proceeding is between the defendant and the state, not the defendant and the alleged victim; 2) Consider issuing “no contact” order that clearly prohibits all contact with victim; 3) if no-contact order issued, court should consider removing the defendant from shared premises; 4) Consider requesting a presence by police to allow the defendant to retrieve belongings; 5) Remember that failure to support one’s family members is a criminal offense; 6) Consider requiring defendant to post bond; 7) Use pretrial services when available to monitor bond conditions; 8) Inquire whether defendant is subject to a protection order; 9) Consider the need to preserve the confidentiality of information that identifies the victim.

**Other:** Assertive safety measures from criminal justice professionals, such as denial of bail for the batterer, heightened community supervision, seizure of firearms, and only supervised child visitation. Hitt & McLain, *Stop the Killing*, 285, 311.

**VI. Pretrial Risk Assessment:**

**Pretrial Justice Institute/ Bur. Of Justice Assistance:**

**State of the Science of Pretrial Release Recommendations and Supervision.** In early 2011, BJA and PJTI published *State of the Science of Pretrial Risk Assessment*. That document focused on what the field knows about the ability to predict the likelihood of failure to appear in court or re-arrest on new charges among pretrial defendant populations. It describes the “great strides that the field has made in assessing risks of pretrial misconduct, as well as the challenges that researchers face in validating pretrial risk assessment instruments, and guidance on how they can face those challenges.”

“The appropriate matching of defendant risk with conditions of pretrial release should take place in the framework of Legal and Evidence Based Practices (LEBP)... A component of this larger LEBP initiative involves the development and implementation of research-based guidelines for use by pretrial services agencies that are (1) risk-based, (2) consistent with legal and evidence-based practices, and (3) provide guidance for pretrial release recommendations and differential pretrial supervision.”
Examples:
Virginia, Pretrial Risk Assessment.
The Virginia Dept of Criminal Justice Services developed the VA Pretrial Risk Assessment Instrument to be used by pretrial services programs. General Assembly mandated that VA Dept of Criminal Justice Services shall develop risk assessment and other instruments to be used by pretrial services programs in assisting judicial officers in discharging their duties. A pretrial risk assessment instrument is used to identify a defendant’s risk of failure to appear or arrest for new offense if released pending trial. Statewide implementation of the instrument is complete.

Connecticut:
CT uses a research-based and validated risk assessment that is used by bail commissioners to guide pretrial release decisions. The risk assessment consists of factors related to the seriousness of the charge, prior criminal record, community ties, employment, residence, and substance abuse. Each factor has weights or points assigned, and the points are added for a total risk score. Scores determine type of bail (unsecured, secured, etc.)

Kentucky:
Study reported June 2011 that Kentucky has a high pretrial release rate of 74% with a low rate of re-arrest and FTA; 93% of individuals released remained arrest-free while awaiting trial. The study confirms that Kentucky judges are predicting who should be granted pretrial release with a high degree of accuracy, using an objective validated 13-question risk assessment tool. PJI calls it an evidenced based standard for other jurisdictions to emulate. Wide-ranging Public Safety and Offender Accountability Act, 2011, requires courts and corrections authorities to incorporate risk/needs assessments to inform decisions at multiple points in the criminal justice process.

New Hampshire:
2010 law mandates use of risk/needs assessments to inform decisions about length of active supervision for all offenders on probation and parole.

VII. General Risk Assessment
When developed and used correctly, risk/needs assessment tools “can help criminal justice officials appropriately classify offenders and target interventions to reduce recidivism, improve public safety and cut costs.” (e.g., LS/CMI). Courts can use risk/needs assessments (RNAs) to help make pretrial bail and release decisions, sentencing and revocation decisions and to set conditions of supervision. Probation can use them to determine levels of supervision, need for specialized treatment, supervision plan, and to inform decisions about sanctions. Prison/jails can use risk tools to set inmate security classification.
“Research has revealed that certain intensive programs work very well with high-risk offenders but actually can increase recidivism rates among low-risk offenders.” Risk classifications can maximize use of limited resources. “Numerous studies have
demonstrated that validated risk assessments accurately differentiate between high-, medium- and low-risk offenders.”

Challenges/limitations: 1) RNAs cannot predict an individual’s behavior “with absolute precision…however, objective tools more accurately predict behavior than subjective assessments by individuals…” 2) RNAs can “help guide decisions, but should not be dispositive. These tools serve as an anchor for decision-making, but professional discretion remains a critical component.” 3) “RNAs must be well designed, well implemented, validated and used routinely to inform decision-making.” Training and supervision is necessary. 5) “There is no one-size-fits-all” RA tool. Multiple tools may be useful to inform decision-making points throughout the criminal justice process.


“The risk assessment process now exists on a continuum of rule-based structure, with completely unstructured (clinical) assessment occupying one pole of the continuum, completely structured (actuarial) assessment occupying the other pole, and several forms of partially structured assessment lying between the two.” The 4 components in the violence risk assessment process are: 1) identify risk factors, 2) measure risk factors, 3) combine risk factors, 4) produce final risk estimate.

“Purely clinical risk assessment structures none of the components”… and has the “least empirical support.” Clinicians are relatively inaccurate predictors of violence.

Referring to a standard list of risk factors that have been found to be empirically valid (e.g., age, past violence), structures one component of the process.

LSI-R is an example of risk assessment that structures 3 components of the process: identification, measurement, and combination of risk factors.

Actuarial instruments (VRAG, ODARA) structure all 4 components. Well-validated instruments seem to perform equally in predicting violence.”

VIII. Conclusion

The Committee concludes this report by recommending that its work examining risk assessment in domestic violence cases continue in fields such as healthcare and child custody matters. Further work is also needed to monitor progress in the development of validated risk assessment tools for use with diverse populations, same-sex relationships, and cases where violence is used by females against males. Promising practices are also developing in other jurisdictions for intervention in cases where the risk of future violence has been identified.

Respectfully Submitted,
Risk Assessment Committee
Faye E. Luppi, Esq.
Julia Colpitts, LCSW
Co-Chairs
Appendix A: LIST OF MEMBERS
The Co-Chairs wish to thank the following Committee members, and the consultants, for their work, expertise, and participation in this process over the last eight months. We also express our appreciation to those who sent in their suggestions as we gathered information throughout the state.

Faye Luppi, Co-Chair, Violence Intervention Partnership
Julia Colpitts, Co-Chair, Maine Coalition to End Domestic Violence
Jen Annis, Family Crisis Services
Margo Batsie, Maine Coalition to End Domestic Violence
Danyel Albert, Family Crisis Services
Michael Bussiere, Chief, Lewiston Police Department
Polly Campbell, Office of the Attorney General
Rick Doyle, Esq., The Next Step
Steve Edmundson, DV Investigator, Sagadahoc County
Stephanie Edwards, Caring Unlimited
Susan Fuller, Homicide Review Panel
Tammy Jo Girard, Saco Police Department
William Goodwin, Department of Corrections
Denise Giles, Victim Services, Department of Corrections
Barbara Guimond, Bail Commissioner
Fatuma Hussein, United Somali Women of Maine
Jodie Johnson, BIP, Family Violence Project
Shawn LaGrega, Maine Pretrial Services
Kathy Maietta, Private Practice, Mental Health representative
Janey Morse, Physicians for Social Responsibility
Mary O’Leary, Volunteers of America
Donald R. Pomelow, Maine State Police
Romy Spitz, Department of Health and Human Services
Holly Stover, Department of Health and Human Services
Corina Tibbetts, Victim Witness Assistant, DAs Office, Piscataquis County
Kristen Washburn, Victim Witness Assistant, DAs Office

Laura Y. Smith, Esq., Office of the Attorney General, Consultant
Robert Moyer, Ph.D., Bates College (ret.), Consultant
Appendix B: BAIL COMMISSIONER INFORMATION FORM: DOMESTIC VIOLENCE

Law Enforcement Agency: ________________________  Arresting Officer: ________________________
Incident #: _____________  Arrest Tracking #: ________  Control Tracking #: ____________
Defendant: ____________________________ Date of Birth: ______________

Address & Phone:

Place of Employment: ____________________________  How Long: ______________
Height: ______________  Weight: ____________  Hair: ____________  Eyes: ____________
Location of Arrest:

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<th>OFFENSE</th>
<th>CLASS</th>
<th>STATUTE</th>
<th>BAIL</th>
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Victim’s Name/s: ____________________________  Relationship to Defendant: ______________
Address: ____________________________  Phone #: ____________________________

RISK INDICATORS:
Any of these factors present:

- Threats to kill self/others/pets
- Weapons – Use/Threat/Access (Type)
- Stalking
- Escalation of Violence/Frequency
- Extreme Jealousy/Obsessiveness
- Sexual Violence
- Alcohol/Drug Use (Type)
- Depression/Mental Illness
- Victim Pregnant
- PFA/PFH in Effect
- Assault/Abuse Occurred in Public
- History of Domestic Abuse Incidents
-

Brief Narrative of Event:
____________________________________________________________________________________
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____________________________________________________________________________________
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Appendix C: References


Hilton & Harris, Risk Assessment Among Incarcerated Male Domestic Violence Offenders, Criminal Justice and Behavior, Aug. 2010.


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