



**Accounting for Risk and Danger Practice Checklists:
Coordinating Risk Assessment in Domestic Violence Cases**

Connie Sponsler-Garcia

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The Battered Women's Justice Project

1801 Nicollet Ave South, Suite 102 Minneapolis MN 55403

technicalassistance@bwjp.org

800-903-0111, prompt 1

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Accounting for Risk and Danger Practice Checklists: Coordinating Risk Assessment in Domestic Violence Cases

Identifying and documenting risk factors for serious or lethal intimate partner violence (IPV) should be incorporated into each step of the criminal justice intervention. A community's coordinating council or task force can spearhead an examination of current practices to uncover gaps that exist in identifying, documenting and transmitting risk information throughout the criminal justice intervention. To assist such an assessment, BWJP has developed *Accounting for Risk and Danger Practice Checklists* for each practitioner in the intervention process. The checklists can help a jurisdiction ensure that its criminal justice response identifies and addresses potential risks to victims, based on sound research on risk factors associated with IPV.

Recent research has also provided guidance on risk factors associated with *high risk* cases. Validated assessment tools are now available and appropriate for use by different interveners in IPV cases. While communities are often excited about developing an enhanced response to high risk cases, this effort will not be effective if current basic practices fail to address risk in general within an effective coordinated interagency response.

The *Accounting for Risk and Danger Practice Checklists* can guide communities in examining their current response to IPV and identify: "How well does the current response address risk?" and prompts the assessors to ask: "What more could be done to improve reduction of risk, especially for victims who may be at high risk of serious, repeated or lethal violence?"

The Practice Checklists are based on the understanding that:

- Victims may share different pieces of risk information with different interveners for a variety of reasons, and that information must be handled carefully in accordance with confidentiality laws and with a concern for victim safety.
- Risk assessment should be an ongoing process in order to take account of changes in the victim's and offender's circumstances.
- The most effective assessment of risk relies on a combination of information from valid risk assessment tools, practitioner expertise, offender history, and the victim's perception of risk.

- The effective management and containment of dangerous offenders requires interconnected practices among agencies that promotes accountability, including active monitoring, appropriate court-ordered services, and swift and certain consequences for re-assault or violations of court orders.

Reducing Risk by Maximizing Victim Safety and Offender Accountability

The *Practice Checklists* guide the assessment by directing attention to practices that improve risk reduction based on the research on risk factors. The sample questions below provide a preview of the full assessment:

Advocacy Programs: Is access to a confidential advocate, and an advocacy initiated response available to all victims contacted by law enforcement? Do police currently make a connection between all victims and advocates from the scene, or just provide a referral card. What follow-up services are available? Are legal advocates available? What is the response to victim-defendants? Are existing advocacy programs able to provide a culturally-competent response to marginalized victims and families in the community? Do existing advocacy programs have the resources to initiate a more pro-active outreach effort?

Emergency Communications: what information on past arrests/convictions/past or existing Protective Orders is available to 911 and relayed to responding officers? Are emergency communications practitioners trained to ask questions regarding lethality indicators, such as presence of or access to weapons, threats to kill, threats of suicide, mental illness and military service/combat duty? Is this information relayed to the officers en route to the scene? Are 911 tapes made available to the prosecutor?

Responding officers: Is there a current practice/policy regarding predominant aggressor determination? Is it consistently applied? What information lethality risk is conveyed to officers by 911? Do officers identify high-risk factors and document them in the police report? What is the current practice for connecting victims to emergency shelter or DV programs? How are cases handled when suspect has fled the scene?

Investigating Officers: Is risk information communicated to investigating officers? Do officers have time/resources to further develop a case when needed?

Jail/Detention: Are there any procedures in place to document risk behaviors/threats and to communicate this information appropriately? Any policies/practices to prevent victim intimidation? Are jail calls available to prosecutor? How long are phone recordings kept? What is procedure for victim notification of release?

Conditions of release/Bail: Who makes decisions on conditions of release/bail? What information is available to them at this point? Is risk information considered?

Prosecutors: Is risk information conveyed to prosecutors – where does it come from, and how is it used? How are charging decisions made regarding felony or misdemeanor charges? How do city/county attorneys coordinate regarding charging? How is ongoing and timely communication with victims handled?

Judges: Is risk information is provided to judges, where does it come from, how is it used? Who has access to the information? How do no-contact orders specifically respond to the severity and context of violence in each case? How are violations of probation and re-offenses handled? Are pre-sentence investigations routinely available?

Probation: How is risk information relayed to or gathered by probation officers? Does it affect their recommendations for sentencing and court mandated conditions/services? Are there resources to enhance monitoring of “high risk” cases, such as GPS or active field supervision?

Batterers Programs: Are Batterer Programs available that cooperate appropriately with the courts? Is there a consistent and accountable system of referrals by the court and reporting on violations to the court in place?

Technical Assistance Available from BWJP

Communities are welcome to use the *Practice Checklists*. If desired, BWJP can provide technical assistance in the use of the checklists and guide communities through the assessment. We would be happy to talk with you about initiating an assessment of your community’s response to risk in IPV cases.

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Accounting for Risk and Danger: 911 Response & Dispatch



Accounting for Risk and Danger: 911 Response & Dispatch	Note how the practice is implemented, or if it's a gap to be addressed
<p>Responder determines the nature of the emergency and related risk factors to the extent possible, including:</p> <ul style="list-style-type: none"> • Immediate threat of harm to persons at the scene, responding officers, and others? • Are guns present? Where are they? • Other weapons? Are they accessible? • Threats to kill victim, children, law enforcement, self, others? • Was victim choked/strangled? • Need for immediate medical attention? • Is suspect a combat veteran? • Does suspect have mental health issues? • Is the victim or suspect a police officer? • Whether children are present and injured, harmed, threatened, abducted, or being drawn into the events in any way? • Is victim is pregnant? • Any step children to suspect in the home? • Custody disputes? • Existence of current Protection Order or conditions of release? • Is there any sort of court matter pending – an arrest warrant that hasn't been served, charges being considered, an upcoming court appearance? • Has suspect ever retaliated against victim for calling police, for asking for help or services, for going to court, etc.? 	
<p>Although a caller may not allege or admit to sexual abuse or coercion directly, responder documents indications of forced sex and relays this information to law enforcement.</p> <p>For example, comments such as: "There are bruises all over my chest." "He ripped my shirt off." "I ran out of the house without any clothes on." "I managed to push him out of the bedroom."</p>	
<p>A high priority code is assigned to DV calls involving weapons, assault in process or imminent, threats to kill or commit suicide, or suspect has fled and victim fears his/her imminent return.</p>	

Accounting for Risk and Danger: 911 Response & Dispatch

<p>Responder determines if it is safe to keep caller on the line and does so until an officer is on the scene and makes contact.</p> <ul style="list-style-type: none"> • If caller cannot safely stay on the line, responder determines if the phone can be put down and the line kept open. • Responder employs strategies to communicate with callers who cannot speak freely. • Responder avoids placing victim in a position of confronting the suspect. • If responder communicates with the suspect, s/he protects the victim from retaliation from the suspect. 	
<p>Responder communicates with child callers in an age-appropriate manner to determine if:</p> <ul style="list-style-type: none"> • The child or anyone else has been injured? • Other children are present, and are they safe? • The children can hide, or leave the premises safely? 	
<p>If call is disconnected, responder calls back, remaining alert to signs that suspect may be on the line.</p> <ul style="list-style-type: none"> • If caller answers, responder determines if caller can safely speak by asking yes/no questions. • If no answer or machine, responder does not leave a message and relays relevant details about the call to law enforcement. • If another adult party answers, responder asks to speak to initial caller. 	
<p>Responder relays priority code to law enforcement with information about history of violence and level of danger, including:</p> <ul style="list-style-type: none"> • Presence of weapons • Type of violence, threats or injuries • Prior domestic calls from this address, from this phone # • History of violence with this victim/suspect, or others • Combat deployment • Mental health issues, medications • Currently high or intoxicated? On what? • Suspect's probation or parole status • Existence of warrants, Protection Order or other court orders 	

Accounting for Risk and Danger: 911 Response & Dispatch

Responder promptly relays details about changing conditions at the scene to law enforcement.	
Responder documents details about the violence, threats and injuries in the designated system.	
Responder effectively implements procedures for handling callers with limited English proficiency when needed.	
Responder effectively implements procedures for responding to deaf or hard-of-hearing callers when needed.	
Responder effectively implements procedures for handling calls when one of the parties is a law enforcement officer.	
<i>(If relevant)</i> Responder effectively implements procedures for handling calls when one of the parties is an active member of the military services.	

Accounting for Risk and Danger: Law Enforcement Incident Report Checklist



Accounting for Risk and Danger: Law Enforcement Incident Report Checklist	Note how the practice is implemented, or if it's a gap to be addressed
<p>Officers document relevant 911 information, including details about any violence or threats communicated in the 911 call.</p> <ul style="list-style-type: none"> • Access to / Use of Firearms /other weapons • History of police involvement, address/parties • Warrants, prior convictions, Info on existing orders for protection, harassment restraining orders, criminal case no-contact orders, probation holds, • Injuries at scene, possible strangulation 	
<p>Officers assess for risk factors specific to DV cases using the assessment protocol of the department. OR Officers informally assess for risk factors.</p>	
<p>Officers ask about history of violence in order to understand context, document the information, and ask follow-up questions:</p> <ul style="list-style-type: none"> • First time, worst time? • Increasing in frequency, severity? • Prior injuries? Prior arrests • Info on existing orders for protection, harassment restraining orders, criminal case no-contact orders, probation holds. • Does the victim think the suspect could seriously harm / or kill them or their children? 	
<p>Threats/Intimidation Officers ask victims about, and document any indicators of threats or intimidation:</p> <ul style="list-style-type: none"> • What has victim been warned or led to believe will happen if the abuse is reported? Has suspect threatened the victim if s/he seeks help from law enforcement? • Are there prior incidents that may not have been reported and prior charges that may have been dropped or dismissed, including restraining orders/Protection orders that were dismissed at the victim's request? • Have there been threats to kill the victim, children, self, threats to abduct the children? 	

Accounting for Risk and Danger: Law Enforcement Incident Report Checklist

<p>Firearms Officers document information gathered from each party involved in the incident:</p> <ul style="list-style-type: none"> • Specific nature of any threats regarding use of weapons • Presence and type of firearms and other weapons in the home, regardless of whether a weapon was used in current incident • Manner in which weapons were used • Actions taken regarding surrender of firearms for safe-keeping 	
<p>Sexual Assault Officers ask if victim has been forced or coerced into sexual acts, indications of sexual aggression or coercion are documented.</p>	
<p>Strangulation All evidence of strangulation is documented in the written report, using the term “strangulation” rather than “choking,” unless quoting the party interviewed, photos are taken, victims are encouraged to seek medical attention.</p>	
<p>Stalking Officers document how this incident is part of a pattern of stalking behavior, the evidence specifically associated with stalking behavior, such as floral deliveries, emails, notes, cards and letters, gifts, and similar evidence, and note in the report any information the victim has offered regarding previous acts of stalking or harassment for follow-up by the investigator.</p>	
<p>Dual allegations of abuse When both parties have used or were alleged to have used violence against the other, officer document:</p> <ul style="list-style-type: none"> • how they assessed whether one party acted in self defense. • if neither party acted in self-defense, how they determined the predominant or most dangerous aggressor, • or why they determined that dual arrests should be made. 	

Accounting for Risk and Danger: Law Enforcement Incident Report Checklist

Officers document injuries completely, provide complete description of how injuries were obtained, and take photographs.	
Officers conclude the report by specifically summarizing risk markers and level of danger.	
Under what circumstances are officers required to report to Child protection? Is victim informed that this will happen?	
When both parties in a same sex relationship were arrested, officers document actions taken to avoid housing, holding, or transporting the suspects together.	
When it appears that one or more parties have limited English proficiency, Officers document how they implemented procedures for communicating with parties.	
Officers facilitate victim referral/connection with local advocacy program, and document those actions.	
Officers avoid arresting victims with outstanding warrants for misdemeanor non-violent offenses.	

Accounting for Risk and Danger: Jail and Booking



Jail and Booking: Accounting for Risk and Danger	Note how the practice is implemented, or if it's a gap to be addressed
<p>Defendants arrested for domestic violence are detained until a judge can assess under what conditions it would be appropriate to release the defendant back into the community.</p>	
<p>Monitoring inmate communications limits the ability of a defendant to make threats for the purposes of intimidating the victim from participating in the court process or seeking aid from service agencies, or retaliating against the victim for calling police.</p> <ul style="list-style-type: none"> • Defendants are denied telephone access to the victim. • Correctional staff warn the defendant that contacting the victim directly, by telephone or mail or through a third party, could potentially lead to further criminal liability. • Communication-monitoring procedures (requiring personal identification numbers or voice recognition to use jail telephones, recording phone conversations, scanning mail for threats or prohibited parties, etc.) deter attempts to communicate threats. 	
<p>Staff document threats to victim made in presence of jail /booking staff and attach to the booking form.</p>	
<p>Victims are given adequate notification prior to the defendant's release from detention so they can take action to protect themselves, and are informed of the conditions of release.</p> <p>Notification should include:</p> <ul style="list-style-type: none"> • date and time of release. • the specific conditions of release, providing a copy of the conditions upon victim request. 	
<p>Monitoring inmate work release limits the ability of a defendant to make contacts for the purposes of making threats, intimidating the victim from participating in the court process or seeking aid from service agencies, or retaliating against the victim for calling police.</p>	

Jail and Booking: Accounting for Risk and Danger

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| <ul style="list-style-type: none">• Correctional staff warn the defendant that contacting the victim directly, by telephone or mail or through a third party, could potentially lead to further criminal liability.• Correctional staff warn the defendant that driving by the victim's location, going to the victim's workplace, etc. could potentially lead to further criminal liability. | |
|--|--|

Accounting for Risk and Danger: Bail-Setting and Pre-Trial Conditions of Release



Bail-Setting and Pre-Trial Conditions of Release:	Note how this practice is implemented, or if it's a gap to be addressed.
<p>Prior to suspect's release from custody, victims are contacted to assist in determining the context and severity of the case, the victim's opinion about pretrial release conditions that are most likely to address their safety needs, and to ensure that the victim is aware of community resources that offer protection and assistance.</p>	
<p>Victims are given adequate notification prior to the defendant's release from detention so they can take action to protect themselves, and are informed of the conditions of release.</p> <p>Notification should include:</p> <ul style="list-style-type: none"> • date and time of release. • the specific conditions of release, providing a copy of the conditions upon her request. 	
<p>A DV-specific risk assessment and/or judicial checklist is used in setting bail and determining release conditions tailored to the particular dangers posed by the suspect to their victims, themselves, and the community.</p>	
<p>Risk factors related to the current offense and history are identified and documented for use in determining the nature of the threat the defendant presents to the victim and other persons.</p> <p>Possible risk indicators:</p> <ul style="list-style-type: none"> • Results of DV-specific risk assessment • Criminal history and current probation status • Access to firearms and their actual or threatened use • Current and past protection or harassment orders • Excessive alcohol or drug use and its impact on defendant's actions • Mental health concerns, impact on defendant's actions • History of combat deployment, indications of depression, PTSD/TBI. 	

Bail-Setting and Pre-Trial Conditions of Release

<p>Recommended bail and pre-trial release conditions are related to the:</p> <ul style="list-style-type: none"> • Violence and coercion that occurred in this incident • History of violence and coercion used by the defendant in this and other relationships. • History of arrests and convictions, probation compliance, and protection order violations • Danger posed by the suspect to the victim and others based on this incident • Responses to risk questions in the police report or a risk assessment tool • Victim’s safety needs and preferences <p>Possible recommendations that address risk factors:</p> <ul style="list-style-type: none"> • Limited/no contact with the victim or children • High risk monitoring/surveillance measures • Abstinence from drug or alcohol use • Drug and alcohol assessment/testing • Mental health/PTSD/TBI assessment 	
<p>No-contact orders are issued as a condition of release unless the victim requests contact. In these cases,</p> <ul style="list-style-type: none"> • the request is evaluated in the context and totality of the circumstances involved, taking into account victim opposition, offender intimidation, victim fear, economic impact, and dangerousness of the offender. • options that allow contact under limited conditions are considered in cases where the risk factors indicate minimal risk, the victim has requested contact, and there is no evidence of coercion. 	
<p>Procedures for victims to request changes in conditions of release are explained to victims and are accessible.</p>	
<p>Defendants are monitored for compliance with conditions of release by designated personnel who:</p> <ul style="list-style-type: none"> • Explain the release conditions and consequences for noncompliance to the defendant. • Meet with the defendant on a regular basis. • Note compliance, violations and other concerns in the file. • Report any violations to the court. • Warn the victim of dangers that come to their attention. 	

Accounting for Risk and Danger: Prosecution



Accounting for Risk and Danger: Prosecution	Note how the practice is implemented, or if it's a gap to be addressed
<p><i>Charging Decisions</i></p>	
<p>In making decisions about what to charge, prosecutors utilize as many sources of information as available:</p> <ul style="list-style-type: none"> • Law enforcement reports of current offense • Past law enforcement reports involving suspect • Summary of pre-sentence investigation • Evidence collected at scene • 911 tapes and CAD reports • Jail phone call recordings, jail visitor logs, inmate mail logs and other similar documents • Past and current protection orders • Email, voice mail, text messages, letters and other communications • Arrest and convictions from all available databases • Interviews with victim and suspect • Victim's responses to dangerousness or risk assessment questions in current or past law enforcement reports • Communications with victim, or with victim advocate (with victim consent). • Defendant's behavioral history related to possible harassment/stalking charges. • Medical records • Family court files 	
<p>As additional information is gathered, prosecutors re-evaluate the case for additional, amended or enhanced charges, especially for behavior that is characteristic in DV cases, such as:</p> <ul style="list-style-type: none"> • Illegal behavior, such as obstructing justice, resisting arrest, etc., that occurs after officers arrive on the scene • Strangulation • Harassment/stalking • Threats to victim or officers • Sexually aggressive behavior • Witness tampering 	

Accounting for Risk and Danger: Prosecution

<p>When both parties have been arrested and/or cited, prosecutors seek to avoid pursuing charges against both, unless there are compelling public safety issues to do so and the parties pose a significant threat of danger to each other.</p> <ul style="list-style-type: none"> • Prosecutors carefully assess whether either party acted in self defense, or one party is the predominant aggressor. 	
<p>Prosecutors evaluate prior recent incidents of criminal conduct against the same victim and consider charging those incidents if sufficient evidence exists.</p>	
<p>In cases involving non DV-related felony charges and a DV-related misdemeanor charge that is not pursued, prosecutors or designated personnel relay information about the DV charge to the pre-sentence investigator to ensure that recommendations of probation include DV-related programming and address victim safety.</p>	
<p>When prosecutors determine a case should be charged at a lower or higher level than initially presented and transfer the case to a different prosecutor's office, prosecutors transfer the case promptly and inform law enforcement of the reason for the transfer.</p>	
<p>Before cases are declined, prosecutors solicit input from law enforcement and carefully consider whether further investigation could produce additional information that would result in charges, particularly related to harassment/stalking, strangulation and terroristic threats.</p>	
<p>When a defendant is a victim of ongoing DV by the victim in this incident, prosecutors:</p> <ul style="list-style-type: none"> • Carefully review the report for indications that defendant acted in self-defense, request further investigation if necessary, and dismiss charges if there is reasonable evidence that defendant acted in self-defense. • Attempt to place controls on the defendant's use of violence without making her/him more vulnerable to continued abuse. In misdemeanor cases, a deferred prosecution might gain enough control on the victim/defendant to secure the help needed to end her or his violence. 	

Accounting for Risk and Danger: Prosecution

<p><i>Bail/Pre-trial Release Conditions</i></p>	
<p>Prior to suspect’s release from custody, victims are contacted to assist in determining the context and severity of the case, the victim’s opinion about pretrial release conditions most likely to address safety needs, and to ensure that the victim is aware of community resources that offer protection and assistance.</p>	
<p>Risk factors related to the current offense and history are identified and documented for use in determining the nature of the threat the defendant presents to the victim and other persons.</p> <p>Possible risk indicators:</p> <ul style="list-style-type: none"> • Results of DV-specific risk assessment • Criminal history and current probation status • Access to firearms and their actual or threatened use • Current and past protection or harassment orders • Excessive alcohol or drug use and its impact on defendant’s actions • Mental health concerns and their impact on defendant’s actions • History of combat deployment, indications of depression, PTSD/TBI. • Strangulation • Forced sex • Evidence the violence has escalated in severity or frequency 	
<p>Recommended bail and pre-trial release conditions are related to the:</p> <ul style="list-style-type: none"> • Violence and coercion that occurred in this incident • History of violence and coercion used by the defendant in this and other relationships. • History of arrests and convictions, probation compliance, and violations of civil protection orders or Conditions of Release. • Danger posed by the suspect to the victim and others based on this incident • Responses to risk questions in the police report or a risk assessment tool • Victim’s safety needs and preferences 	

Accounting for Risk and Danger: Prosecution

<p>Possible recommendations that address risk factors:</p> <ul style="list-style-type: none"> • Limited/no contact with the victim or children • High risk monitoring/surveillance measures • Abstinence from drug or alcohol use • Drug and alcohol assessment/testing • Mental health/PTSD/TBI assessment • Surrender of weapons 	
<p>When defendants are not held in custody, prosecutors request pre-trial supervision when there is indication of escalating violence or a serious concern by a victim or other agencies about the probability of continued harassment and harm.</p>	
<p>No-contact orders are issued as a condition of release unless the victim requests contact. In these cases,</p> <ul style="list-style-type: none"> • The request is evaluated in the context and totality of the circumstances involved, taking into account victim opposition, offender intimidation, victim fear, economic impact, and dangerousness of the offender. • Options that allow contact under limited conditions are considered in cases where the risk factors indicate minimal risk, the victim has requested contact, and there is no evidence of coercion. 	
<p>Procedures for victims to request changes in conditions of release are explained to victims and are accessible.</p>	
<p><i>Pre-trial Procedures</i></p>	
<p>Victims are not required to sign criminal complaints or attend pre-trial hearings.</p>	
<p>Prosecutors utilize a subpoena process that does not expose victims to reprisals from defendants. Prosecutors do not employ subpoenas against reluctant and unprepared victims in such a way as to expose them to arrest.</p>	
<p>Prosecutors only subpoena the victim to evidentiary hearings, and work with victims, advocates and court staff to shield victims from reprisal by offenders and offender's associates.</p>	

Accounting for Risk and Danger: Prosecution

<p><i>Plea Agreements & Sentencing Recommendations</i></p>	
<p>Prosecutors obtain input from the victim and victim advocates to assist in plea negotiations and sentencing recommendations that best reflect the circumstances of the case, the context and severity of the offense and the victim’s safety needs.</p>	
<p>If a defendant reasonably appears to be a victim of ongoing DV, prosecutors consider a plea to a lesser offense and/or an agreement to a stay of imposition with probationary conditions that include support services that reduce the likelihood of future violence and the vulnerability of the victim defendant to further violence.</p>	
<p>In jurisdictions where probation officers submit recommendations to the court, prosecutors argue for additional or different sanctions if they feel the recommendations do not address the context and severity of the offense, the danger the defendant poses to the victim and the safety needs of the victim and the public.</p>	
<p>Prosecutors consider withdrawing from negotiated plea agreements and sentencing recommendations in order to request additional sanctions or bring new charges when information comes to their attention that changes their view of the danger the defendant poses, such as news of a weapon purchase, new threats, ongoing harassment or stalking, etc.,</p>	
<p>Prosecutors appear at all proceedings related to violations of sentencing conditions, including admit or deny hearings, and argue for imposition of more severe consequences in all cases involving new threats or acts of violence.</p>	
<p><i>Victim Engagement</i></p>	
<p>Prosecutors work with advocates to develop a process to maintain confidentiality of victim’s location when necessary.</p>	
<p>Prosecutors or designated personnel stay in contact with victim throughout the court process, providing her with pertinent case information (e.g., give her the docket number to help her keep apprised of court dates and</p>	

Accounting for Risk and Danger: Prosecution

<p>pending motions), and making sure she is not being intimidated or threatened.</p>	
<p>Victims are encouraged or guided in collecting further evidence, particularly to keep a chronology of defendant contact and history of abuse, if not already documented.</p>	
<p>Prosecutors utilize legal strategies to protect the victim and the integrity of the case (e.g., no-contact provision, restraining orders, charges for violating protection orders, trial motions to prevent admission of irrelevant information about the victim into evidence, etc.).</p>	
<p>Victims are encouraged to call police if the offender violates existing court orders.</p>	
<p>Procedures exist for facilitating contact with victims and offenders with limited English proficiency.</p>	
<p>Prosecutors attempt to protect victims from retaliation for participating in the case.</p> <ul style="list-style-type: none"> • Charges that can be prosecuted independent of the victim’s direct testimony are pursued. • Prosecutors attempt to identify intimidation and coercion directed at victims and utilize the doctrine of forfeiture by wrongdoing to take action for witness tampering. • Prosecutors consider available protective measures during the discovery process (e.g., redacting victim location information from materials that will be discoverable by the defense, etc.). • Prosecutors work with court staff to create an intimidation-free environment in court. • Prosecutors work with advocates to tailor victim safety-planning advice to the specifics of the case and the victim’s life circumstances (e.g., renting a security system, changing social media habits, etc.) 	

Accounting for Risk and Danger: Probation



Accounting for Risk and Danger: Probation	Note how the practice is implemented, or if it's a gap to be addressed
<i>Pre-sentence Investigation</i>	
A pre-sentence investigation is conducted on all DV cases.	
Probation officers are trained to recognize risk and lethality factors in DV cases.	
<p>Probation officers have access to, and use all the following to inform pre-sentence recommendations:</p> <ul style="list-style-type: none"> • Law enforcement reports of the current offense (including any risk assessment) • Past police reports involving this defendant • History of arrest and convictions from all available databases • Current or prior protection orders • Probation status and compliance <p>Pre-sentence recommendations are informed by the following:</p> <ul style="list-style-type: none"> • Results of DV-specific risk assessment • Defendant's access to firearms and their use or threatened use in the past • Excessive alcohol or drug use and its impact on defendant's actions • Mental health concerns and their impact on defendant's actions • History of combat deployment, indications of depression, PTSD. • Information from the victim regarding history of abuse between the suspect and the victim and current concerns for safety 	
<p>Probation officers contact victims to:</p> <ul style="list-style-type: none"> • Ask about concerns regarding the outcomes of the case, listening for indications of victim intimidation, cultural considerations, and economic impact. • Ask what sentencing conditions are most likely to address victim's safety needs, and those of the children. 	

Accounting for Risk and Danger: Probation

<ul style="list-style-type: none"> • Connect victims with victim services, ask what would be the best time and number to have someone contact them from the Non Governmental victim services organization. • Inform victims that further periodic contact may occur to see if they have any safety concerns and that they are not required to answer and may hang up. 	
<p>Sentencing recommendations address the risk factors indicated by the PSI:</p> <p>Possible recommendations:</p> <ul style="list-style-type: none"> • Limited/no contact with the victim or children • High risk monitoring/surveillance measures/GPS • Abstinence from drug or alcohol use • Drug and alcohol assessment/testing • Mental health/PTSD/TBI assessment • Batterer intervention programs 	
<p><i>Case Supervision</i></p>	
<p>Probation or designated personnel provide supervision of misdemeanor and felony DV cases.</p>	
<p>Cases are promptly processed and assigned to a supervising agent.</p>	
<p>All documents from the pre-sentence investigation are forwarded to the supervising agent. If a different agency conducts the PSI, that information is obtained.</p>	
<p>Cases are assigned to different levels of supervision and intervention based on initial evaluation of risk and subsequent changes in risk levels.</p>	
<p>Probation officers recognize and document risk factors for re-assault/lethality that come to their attention, such as:</p> <ul style="list-style-type: none"> • Victim attempting a permanent break and he is upset • Ex-partner dating a new person, excessive jealousy • Obsession with victim/partner; stalking 	

Accounting for Risk and Danger: Probation

<p>behaviors</p> <ul style="list-style-type: none"> • Homicide or suicide threats • New police contacts or arrests, or incidents of violence in general • Ongoing efforts to take children from mother through a custody case • Children at home who are not his own • Unstable medication due to loss of health insurance or job • Abuse of alcohol or drugs • Multiple victims • Animal abuse, killing pets • Access to weapons 	
<p>In situations of elevated risk, probation staff impose or recommend additional sanctions that increase containment or monitoring, such as requiring additional group sessions or use of GPS.</p>	
<p>Probation officers are responsive to situations associated with an increased risk for re-offense/injury with probation clients who have documented histories of being abused by the victim in the current case.</p> <p>Such situations include but are not limited to:</p> <ul style="list-style-type: none"> • 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 • The probationer believes the victim is using the courts, child protection, and/or the mental health system as a form of harassment and abuse. • The victim/defendant’s abuser is engaging in behaviors associated with high risk/lethality. <p>In these cases, probation officers should anticipate the potential for both parties to use severe or lethal violence and attempt to prevent this by:</p> <ul style="list-style-type: none"> • Referring probationers to a domestic violence advocacy program that can provide resources and options that counter beliefs that only the use of violence can help them, • Explore with police and prosecutors the possibility of initiating steps to obtain control 	
<p>of the abuser’s behavior.</p>	

Accounting for Risk and Danger: Probation

<i>Referrals to BIPs and Other Programs</i>	
Probationers are only referred to BIPs that meet any standards set by state statute, or appropriate local standards developed in partnership with domestic violence advocacy organizations, unless a compelling reason exists to do otherwise.	
Every effort should be made to make referrals to programs that are culturally-responsive to the defendant, or can meet a defendant’s special needs.	
Defendants who are victims of ongoing coercive violence are offered specialized programming that recognizes the context and scope of violence they are experiencing as victims as well as using against their abusers.	
Referral procedures with the court/probation allow for prompt identification of defendants who fail to enroll in the BIP or other programming in the time allotted, and prompt notification back to the court/probation of the violation.	
BIPs are provided a copies of: the police report, judgment and sentence, the criminal history, any prior or current no-contact order, restraining or protection orders, and firearms restrictions BIPs are informed if the probationer has a history of substance abuse or mental health problems, including PTSD and combat history.	
Information sharing agreements with court-ordered service providers ensure swift and consistent communication with the courts regarding issues of non-compliance, or concerns of escalating risk.	
<i>Probation Violations and Revocation</i>	
Probation officers document any non-compliance with conditions of probation, and immediately notify and forward any required information necessary for revocation to the sentencing judge when:	

Accounting for Risk and Danger: Probation

<ul style="list-style-type: none"> • there is evidence of new abuse: • the batterer has committed a new crime, • the batterer has been disruptive in treatment or refuses to participate actively, • the batterer has been detected violating any drug or alcohol conditions, • there is a pattern of technical violations. 	
<p>Probation officers contact the victim before the revocation process is initiated to discuss impact of revocation on victim safety and need for additional safety planning.</p>	
<p>Probation officers expedite revocations to decrease the danger the non-compliant probationer poses to the victim by quickly terminating his probation.</p>	
<p>Community corrections programs and professionals ensure that all victims contacted by corrections are provided with advocacy referrals.</p>	
<p>Probation officers follow procedures that protect the confidentiality of victim information.</p>	
<p><i>Screening of All Women Probationers</i></p>	
<p>Probation officers screen all women offenders on community supervision for the presence or history of domestic violence. If abuse is present, probationers are referred to DV programs for services.</p>	

Accounting for Risk and Danger: Judicial Considerations



Judicial Considerations: Accounting for Risk and Danger	Note how the practice is implemented, or if it's a gap to be addressed
<p>Information regarding lethality factors is available to the Bench:</p> <ul style="list-style-type: none"> • Access to a firearm, or firearm in the home • Use or threatened use a weapon against the victim • Attempts to strangle or choke the victim • Threats or attempts to kill the victim or children • Increase in frequency or severity of physical violence over the past year • Alleged perpetrator has forced / coerced the victim to have sex • Alleged perpetrator tries to control most or all of victim's daily activities • Alleged perpetrator is constantly or violently jealous • Alleged perpetrator has threatened or tried to commit suicide • Victim belief that the alleged perpetrator will re-assault or attempt to kill them or the children. <i>A "no" answer does not indicate a low level of risk, but a "yes" answer is very significant</i> • Pending or prior Orders for Protection, criminal or civil cases involving this alleged perpetrator <p>Potential sources include police, victim witness staff, prosecutors, defense attorneys, court administrators, bail evaluators, pre-sentence investigators, probation, custody evaluators, parties and attorneys</p> <p>Judge communicates to practitioners the expectation that <u>complete and timely</u> information on these factors will be provided to the court</p>	
<p>Firearms</p> <p>Judicial officers have practices and policies in place to inform domestic violence offenders regarding 18 U.S.C. §922(g)(8) and (9) and applicable Federal, State and local laws.</p>	

Judicial Considerations: Accounting for Risk and Danger

<p>The following is suggested language from the U.S. Department of Justice:</p> <p>Person subject to protection order. “As a result of this order, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. §922(g)(8) and/or state law. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.”</p> <p>Person convicted of MCDV. “If you are convicted of a misdemeanor crime involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition, pursuant to federal law under 18 U.S.C. 922(g)(9) and/or state law.”</p>	
<p>Convey message to the general public that domestic violence is a crime and “not just a family matter”</p> <p>Judge does not elicit safety or risk information from victims in open court</p> <p>Provide victims opportunity to consult with confidential advocates to discuss risk assessment. Provide referrals to supportive, culturally competent community-based services, such as victim services programs, counseling, employment, immigration or housing</p>	
<p>Courthouse safety Court staff are prepared to address the heightened safety considerations to the victim and to court staff.</p> <ul style="list-style-type: none"> • screen for weapons at entry to the courthouse • always have bailiffs available in the courtroom and hallways • never require the parties to spend time alone together, and arrange for separate or guarded waiting areas • order respondents to remain in the courthouse an additional 10-15 minutes after petitioners leave 	

Judicial Considerations: Accounting for Risk and Danger

<ul style="list-style-type: none"> • provide a bailiff escort for petitioners, witnesses, advocates and counsel as they leave the courthouse • have a bailiff stand between the parties when they appear at the bench • prevent respondent from attempting to directly address petitioner in court • require that parties sit on opposite sides of the courtroom • require certified interpreters when any party is limited English proficient 	
<p>Civil Protection Orders Notify victim when service will be attempted or has been completed.</p> <p>Matters of jurisdiction Have violence or threats been made to victim within court’s jurisdiction?</p> <p>Is respondent from another jurisdiction? <i>Consult state’s long-arm statute or tribe’s statute conferring jurisdiction.</i></p> <p>Is petitioner from another jurisdiction? If so, is petitioner fleeing abuse?</p> <p>Is there an existing civil order from another jurisdiction requiring full faith and credit pursuant to 18 U.S.C. 2265?</p> <p>All foreign-born persons, without regard to immigration status, are constitutionally guaranteed access to US courts. <i>Plyer v. Doe</i>, 457 U.S. 202, at 210 (1982).</p> <p>Effective Orders When necessary have the order translated into a party’s primary language.</p> <p>Avoid conflicting orders. Identify other orders governing the conduct of the parties (criminal, family, protection order, child/adult protective, orders from other jurisdictions).</p> <p>Include information relevant to enforcement such as jurisdictional basis, penalties for violation, weapons</p>	

Judicial Considerations: Accounting for Risk and Danger

<p>prohibitions, and contact information for the court.</p> <p>Protect confidentiality of victim’s address/phone number. VAWA confidentiality provisions also preclude use of the family courts to learn about any U or T visa case.</p> <p>If your court posts court records publicly on the Internet, seal information relating to victim’s and children’s names and locations.</p> <p>Include clear & specific consequences of deviating from provisions of order.</p> <p><i>Order respondent to pay mortgage/rent, or not to deplete assets</i></p> <p><i>Order respondent to retain and produce immigration documents, to cooperate with immigration proceedings, and not to contact DHS regarding the petitioner</i></p> <p><i>Award ownership of car, pets, etc. where needed, order support for victim and children</i></p> <p><i>Order respondent to relinquish firearms to local law enforcement for the duration of the order</i></p> <p>Notify respondent of any firearms prohibitions that may apply once the order issues, particularly the federal firearms prohibition under 18 U.S.C. 922(g)(8).</p> <p>Specify any prohibition related to firearms on the protection order, e.g. directives against, purchase, sale, possession or control of firearms, ammunition or permits.</p> <p>Otherwise, to remove firearms, use the “catch all” provision in the state protection order statute that permits the court to issue additional relief to enhance protection of the petitioner and any protected minor children.</p> <p>Provide information that it is unlawful under federal law to purchase, possess or have control over a firearm, including a rifle, pistol or revolver or ammunition, while subject to the civil or criminal protection order.</p>	
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Judicial Considerations: Accounting for Risk and Danger

<p>Enforcement</p> <p>Include in orders consequences for failure to comply, and enforce them against the respondent (to whom the order is directed).</p> <p>Schedule case monitoring conferences when necessary, and consider excusing the petitioner from appearing.</p> <p>Consider civil and/or criminal contempt sanctions, as appropriate.</p> <p>No removal of protections unless victim has had prior notice and opportunity to be heard.</p>	
<p>Full Faith and Credit</p> <p>Court complies with The Violence Against Women Act 2005 (VAWA) regarding Full Faith and Credit requiring enforcement of orders issued by other jurisdictions, including custody provisions.</p> <p>Valid orders of protection from other jurisdictions must be honored and enforced, even if not registered.</p> <p>Protection Orders include the following language: <i>“This civil protection order has been issued in compliance with the notice and due process requirements set forth in the Violence Against Women Act of 2005, 18 U.S.C. §2265 and the laws of this state. This order, and all of its provisions, is enforceable in all fifty (50) states, the District of Columbia, tribal lands, and U.S. territories.”</i></p> <p>Mutual Orders (<i>i.e., orders issued against both parties on the basis of only one petition</i>) are not entitled to full faith and credit in other jurisdictions, and should be discouraged.</p> <p>Courts and law enforcement agencies receiving federal funding must certify that their laws, official policies or practices prohibit the issuance of mutual protection orders.</p> <p>Firearms and other weapons</p> <p>18 U.S.C. §922(g)(8) prohibits persons subject to “qualifying orders of protection” from possessing a firearm or ammunition in or affecting commerce.</p>	

Judicial Considerations: Accounting for Risk and Danger

Violation of the law is punishable by up to ten years in prison.

Ensure the order is a “qualifying order of protection” under federal law:

respondent has been accorded notice and opportunity to be heard petitioner is an “intimate partner” or the child of either party (18 U.S.C. §921(32)) order includes a finding that the respondent is a credible threat to the intimate partner or child, or prohibits future use or attempted use of physical harm reasonably expected to cause bodily injury; or order prohibits respondent from continuing to harass, threaten, stalk or otherwise engage in acts that would place the intimate partner in reasonable fear of bodily injury to themselves or the child

Where appropriate, order and verify surrender of weapons to law enforcement; respondents should be ordered to file the receipt from the police agency or proof of sale to the court.

When the protection order issues, provide the following warning, either verbally or in writing, to the respondent, as required by 42 U.S.C. 3796gg-1(e):

“As a result of this order, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. 922(g)(8) [and/or state law]. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.”

Surrender/Transfer/Return of Firearms

Require the surrender of all firearms before the defendant is released from custody and upon conviction of a MCDV

Establish a compliance mechanism for surrender of firearm (i.e., specify the place where the firearm should be surrendered, the date and time the surrender should be completed, and a description of the firearm(s) to the extent possible).

Direct the Sheriff or other appropriate agency to destroy any surrendered firearm absent proof of

Judicial Considerations: Accounting for Risk and Danger

<p>lawful ownership (if authorized under state law). If lawfully owned, a judge may approve a plan for sale/transfer of a firearm.</p> <p>Establish a procedure for return of firearms:</p> <ul style="list-style-type: none"> • Conduct a hearing prior to returning firearms to determine the respondent/defendant’s eligibility to possess under state and federal law. • Provide the victim with the opportunity to be heard in all proceedings related to the return of firearms and ammunition to the respondent/defendant and notify the victim. <p>When the respondent/defendant seeks to transfer their firearms to a third party:</p> <ul style="list-style-type: none"> • Determine whether or not the third party is prohibited from possessing firearms under state or federal law. • Hold a hearing to determine whether the respondent/defendant would retain access (constructive possession) to the firearm(s). • Have both the respondent/defendant and the transferee sign a form that acknowledges that firearms may not be transferred to a prohibited party. Signing should be witnessed by court staff or under penalty of perjury as a court order. <p>Inform the respondent/defendant and the transferee that they may be subject to federal prosecution if they knowingly transfer or return any firearm to a prohibited person. 18 U.S.C. §922(d)(8),(9).</p>	
<p>PHYSICAL ACCESS:</p> <p>American with Disabilities Act; state law. Consult state and federal laws to ensure compliance with legal minimums for physical access to the courts.</p> <ul style="list-style-type: none"> • Ensure courtroom is free of architectural and communication barriers (e.g., signs, alarms). • Provide auxiliary aids or services when they are necessary to ensure effective communication (e.g., using a TTY or mrelay service for litigants who are Deaf or hard of hearing; • Provide Braille documents or reading documents to a blind litigant). 	

Judicial Considerations: Accounting for Risk and Danger

- Ensure that service and companion animals are permitted in facilities unless the animals pose a direct threat to the health or safety of others.
- Ensure that persons with disabilities are not charged to cover the costs of needed accommodations, including cost to hold hearings at accessible locations. When the respondent has means, order that the costs of accommodation be paid by respondent.

LANGUAGE ACCESS: Title VI of the Civil Rights Act; Americans with Disabilities Act; state law

- Consult federal and state law to ensure compliance with legal requirements for language access to the courts.
- Utilize professional and/or qualified interpreters. Know how to qualify an interpreter for legal proceedings. In no case should a party's child or other family member interpret.
- Be aware that some language communities are very small, and effective communication requires that the party must be comfortable with the interpreter chosen and satisfied that there are no potential conflicts of interest or safety concerns.
- When the respondent has means, order that the costs of interpreters/translators be paid by respondent.
- provide restitution to abused party and financial support (e.g., property division, child support, and maintenance of basic needs such as clothing and health insurance)
- order structured visitation or custody arrangements to ensure stable, safe environment for
- children with the non-abusing parent

Accounting for Risk and Danger: Batterers Intervention Programs



Accounting for Risk and Danger: Batterers Intervention Programs	Note how the practice is implemented, or if it's a gap to be addressed
<p>Referral to a BIP from court personnel/probation includes:</p> <ul style="list-style-type: none"> • Copy of any DV-related police reports with this or previous victims (if privacy laws allow) • Judgment and sentence • Previous and current family court protection orders from family court, firearms restrictions • Information regarding history of substance abuse or mental health problems, including PTSD/TBI related to combat experience. • Risk assessment results 	
<p>Referral procedures with the court/probation allow for prompt identification of referrals who fail to enroll in the BIP in the time allotted and prompt notification back to the court/probation of the violation.</p>	
<p>At intake, staff conduct a risk assessment according to agency protocol.</p>	
<p>At intake, staff inquire about combat experience and possible PTSD/TBI and refer participant for PTSD/TBI assessment.</p>	
<p>Staff contact the victim to explain the program and their procedures for alerting her/him when staff are concerned that the participant may pose a danger to the victim or children.</p>	
<p>During the participant's time in the program, staff recognize and document risk factors for re-assault/lethality as they are disclosed, such as:</p> <ul style="list-style-type: none"> • Victim attempting a permanent break and he is upset • Ex-partner dating a new person, excessive jealousy • Obsession with victim/partner; stalking behaviors • Homicide or suicide threats • New police contacts or arrests, or incidents of violence in general • Ongoing efforts to take children from mother through a custody case 	

Accounting for Risk and Danger: Batterers Intervention Programs

<ul style="list-style-type: none"> • Children at home who are not his own • Unstable medication due to loss of health insurance or job • Abuse of alcohol or drugs • Multiple victims • Animal abuse, killing pets • Access to weapons 	
<p>Whenever risk/lethality indicators are high, BIP staff contact:</p> <ul style="list-style-type: none"> • the victim to check on her/his welfare and discuss steps to enhance her protection; • the advocacy program working with the victim, if a release of information has been signed by the victim. • court/probation staff to discuss strategies for increased containment or monitoring, such as requiring additional group sessions or use of GPS. • other relevant agencies, such as alcohol and drug treatment programs. 	
<p>Staff promptly report to probation when participants reach an agreed upon number of unexcused absences.</p>	
<p>Separate groups are offered for female and male participants.</p>	
<p>Whenever possible, BIP accommodates offenders with special needs or provides culturally-specific programming for participants of diverse cultural backgrounds.</p>	

Accounting for Risk and Danger: Civil Protective Orders



Accounting for Risk and Danger: Civil Protective Orders	Note how the practice is implemented, or if it's a gap to be addressed
<p>Accessibility</p> <ul style="list-style-type: none"> • Child care is available for litigants seeking orders. • The courthouse is physically accessible to all persons. • Interpreters are available to assist throughout the civil protection order process. • No fees are charged for requesting, filing, modifying, dismissing or serving an order 	
<p>Court Safety</p> <ul style="list-style-type: none"> • Address confidentiality is available to the petitioner if so requested. • The courthouse provides separate, monitored waiting rooms for petitioners and respondents. • Security personnel are present in the courthouse and courtroom, and to accompany petitioners/witnesses to parking areas and/ or bus stops. • At the conclusion of the court appearance, petitioners are permitted to leave the courtroom and courthouse before respondents. 	
<p>Issuing the Order</p> <ul style="list-style-type: none"> • Court evaluates risk and lethality factors in the petition to craft appropriate relief. • Court considers harm to children and use of children as an instrument of abuse in deciding custody and visitation matters in protection orders. • Court is aware of other court orders in effect, e.g. juvenile, family court, and does not create contradictory mandates for petitioner or respondent. 	

Accounting for Risk and Danger: Civil Protective Orders

<p>Economic Relief</p> <p>Economic relief as allowable by statute is provided to protect victim by enabling her to live apart from the respondent, including:</p> <ul style="list-style-type: none"> • Child support • Maintenance • Mortgage • Car payments • Attorney’s fees • Court costs • Service fees • Medical expenses • Debts • Other economic restitution 	
<p>Custody & Visitation</p> <ul style="list-style-type: none"> • Orders are crafted to ensure the safety of petitioner and minor children during visitation and exchanges. • Safe visitation and exchange procedures or ordering the use of a visitation center. • Visitation schedule in protection order is created. • Court carefully evaluates appropriateness of allowing family members or other third parties to supervise visitation. • If the petitioner objects to visitation and paternity has not been established pursuant to state requirements, the court should withhold visitation until paternity is established. 	
<p>Firearms</p> <ul style="list-style-type: none"> • The protection order form clearly includes information on state and federal firearm prohibitions. • Judge verbally advises respondent about potential firearm prohibition applicability as required by VAWA. • Petitioner is encouraged to provide information on the use and control of firearms in the petition or through court inquiry. 	

Accounting for Risk and Danger: Civil Protective Orders

<ul style="list-style-type: none"> • Order bars possession or control of firearm(s) and ammunition. • Procedure is established and implemented to ensure respondent's surrender of firearm(s). 	
<p>Service</p> <ul style="list-style-type: none"> • Safety planning and information is provided to the petitioner. • Petitioner is notified promptly after service of the protection order or if service has been unsuccessful. • Law enforcement documents the respondent's behavior during service that indicates a potential elevated threat to the petitioner and notifies the petitioner and his or her advocate, if known to law enforcement. • Seize firearms and ammunition in respondent's possession when serving protection order as permitted under state or federal law. • Formal memorandum of understanding (MOU) between the local military installation and the local jurisdiction allows for military respondents to be served civilian protection orders on base. Military police or provost marshal officer are contacted to assist with obtaining service on military respondents. 	
<p>Enforcement</p> <ul style="list-style-type: none"> • Protection orders are enforced without requiring registration or filing of the order. • Arrest is made for a violation when the respondent has actual or constructive knowledge of the protection order, pursuant to enforcing jurisdiction's laws. • Provisions in out-of-state and tribal protection orders are enforced, even if the enforcing jurisdiction's statutes do not provide for similar relief. 	

Accounting for Risk and Danger: Civil Protective Orders

<ul style="list-style-type: none">• Custody provisions are enforced.• Economic relief provisions are enforced	
<p>Judicial Enforcement</p> <ul style="list-style-type: none">• Court enforces all protection orders including orders from other states, tribes, and territories.• Proactive enforcement of protection orders is practiced by the court through the use of compliance hearings.• Custody and visitation provisions are enforced to the same degree as no contact or stay away provisions, pursuant to state statutes.• Record indicates when the respondent is a repeat violator.• The court imposes appropriate sanctions as allowed by statute.• Sanctions impose no undue burden on the protected party.	