

Factors affecting risk

Overview

The following factors are commonly identified in other judicial bench books, academic literature, and a range of risk assessment tools as key signifiers of risk for the escalation of domestic and family violence. It is not an exhaustive list and other resources may include additional factors. The distinguishing characteristic of **domestic and family violence** is that it can present in many forms and can occur within a variety of relationships and is most likely to involve a **complex pattern of controlling behaviour** and violence over a period of time, rather than a single incident. This is often referred to as **coercive control**. One study has described coercive control as the ‘golden thread’ running through risk identification and assessment for domestic violence [Myhill & Hohl 2019]. It is likely therefore that risk will heighten where a perpetrator increasingly engages in multiple forms of violence or abuse, or does so more frequently, intensely or severely. Judicial recognition of this is critical to understanding the ongoing and ever-changing risks of domestic and family violence unique to the circumstances of each case before the court, and the need to regularly reassess risk throughout the course of judicial proceedings [Bench guide for recognizing dangerousness in domestic violence cases]. It is also important to recognise, more broadly, that certain groups within the community **as identified in this bench book** may be at greater risk of experiencing domestic and family violence, and may be more vulnerable to its impacts. Some people may belong to multiple groups that have been identified as being particularly vulnerable to domestic and family violence and, as a consequence, may experience heightened risk or vulnerability.

Past domestic and family violence

The risk of life-threatening injury or death is reported to be higher where the past violence experienced by a victim occurred within the last year and included at least one incident where the perpetrator used or threatened to use a firearm or knife [Folkes et al 2012] or strangled or choked the victim [Glass et al 2008], or where the perpetrator made a death threat of any kind to the victim [Campbell et al 2003a], or where the frequency or severity of incidents of threatened or actual physical violence increased in the lead up to the life-threatening injury or death. Some victims however may never experience any form of actual or threatened physical violence and yet may still be at risk of death; in some reported cases, the homicide is the first incident.

However, in many of these cases the homicide was preceded by **coercive and controlling behaviour** [NSW DV Death Review 2020]. In these cases, there may be other important signifiers of risk evident in the perpetrator's behaviour, such as: physical violence outside the intimate relationship; misuse of alcohol or drugs; intense jealousy towards the victim; or exercising a high level of prolonged control over the victim's daily activities and life [Block 2009]. Research demonstrates links between the experience of domestic and family violence and the development of mental health conditions in victims and this may place victims at risk of **self-harm and suicide**.

Non-fatal strangulation

US research [Training Institute of Strangulation Prevention] indicates that women who had experienced non-fatal strangulation by the perpetrator in the last year were twice as likely to be killed as women who had not [Block 2009]. Other key studies in the US found that women who had experienced non-fatal strangulation were seven times more likely to be killed by their abusive partner [Douglas & Fitzgerald 2014]. These women were also six times more likely to be a victim of attempted murder by their abusive partner [Glass et al 2008]. Strangulation is sometimes referred to as garrotting or choking. Strangulation has been identified as one of the behaviours that often forms part of a pattern of behaviours underpinning **coercive control** [Thomas et al 2014]. A recent Western Australian study highlights the strong association between non-fatal strangulation and intimate partner sexual assault [Zilkins et al 2016].

Weapons and threats to kill

Limited Australian research in this area necessitates referencing Canadian and US sources. It is important to note that firearms are more prevalent and easier to obtain in the US than in Canada and Australia. A Canadian study found that where a firearm was present in the home, the risk of severe harm caused by weapons was heightened. This was the case even though the firearm was generally not used, and the harm was caused by another kind of weapon [Folkes et al 2012].

American research [Campbell et al 2003a] indicates that the severity of abuse related harm is significantly heightened when weapons are involved. Studies found that women whose abusers used or threatened use of a weapon were 20 times more likely to be killed (with or without a weapon) than women whose abusers did not use or threaten weapon use. A Chicago study of women subjected to lethal and non-lethal harm found that 23 per cent of abuse incidents involving a firearm had a lethal outcome. In the same study, 35 per cent of incidents involving a knife had a lethal outcome [Block 2009].

Separation

Victims, and their family and friends, may not always recognise domestic and family violence where there has been a prolonged history of **controlling behaviours** by the perpetrator and no acts of physical violence or harm. For some victims, leaving an intimate relationship will be the first time they identify an experience of domestic and family violence by their former partner, although research suggests that usually there are indications of **controlling behaviours** within the relationship prior to separation [Qld Coroner 2014]. Where violence has occurred during the relationship, it is common for perpetrators to continue or escalate the violence after separation in an attempt to gain or reassert control over the victim, or to punish the victim for leaving the relationship [Fleury et al 2000]. Where women leave an intimate relationship and first experience or continue to experience violence after separation, their former partner may experience an intense sense of loss of control and the violent response may be severe, life threatening or lethal [McFarlane et al 2002]. The Queensland Domestic and Family Violence Review and Advisory Board in its 2018-19 Annual Report noted a strong correlation between separation and homicide. Between 2006 and 2019 46.7 per cent of Queensland victims of intimate partner homicide were known to have separated (27.1 per cent) or intended (19.6) to separate from the perpetrator. [Queensland Government Domestic and Family Violence Death Review 2019] In the Victorian Systemic Review of Family Violence Deaths 1 January 2011 to 31 December 2015 42.1 per cent of the 38 family violence intimate partner homicide incidents in Victoria between 2011 and 2015 involved individuals who had separated, 23.7 per cent in the three months preceding their death and 15.8 per cent involved individuals with intention to separate or separation pending. [Vic Systemic Review 2020]

The NSW Domestic Violence Death Review Team Annual Report 2017-2019 recorded that in two-thirds of all intimate partner homicides where a female was killed by a former partner, the victim and perpetrator had separated within three months of the killing and where a female was killed by a current partner in 36 per cent of cases one or both parties had indicated an intent to end the relationship within three months of the killing, concluding that the period directly after separation may be high-risk for women in relationships involving domestic and family violence [NSW DV Death Review 2020]. The Australian Bureau of Statistics reported that in 2019 domestic and family violence-related homicide victims accounted for over a third of the total number, and females accounted for almost two-thirds of all victims [ABS FDV-related offences 2020].

Importantly, in the context of separating parents, there is also an increased risk of harm to children's psychological and physical wellbeing due to exposure to domestic violence, history of maltreatment, parental stress, social isolation of the family, and inadequate resources and support [Jaffe et al 2014].

Pregnancy of victim

The NSW Legislative Council Standing Committee on Social Issues found that **pregnant women** are 230 per cent more likely than non-pregnant women to experience domestic and family violence [NSW Social Issues Report 2012]. 47.5 per cent of the respondents in the 2016 Australian Bureau of Statistics Personal Safety Survey had experienced violence by a former partner while pregnant. For 24.1 per cent of these respondents, pregnancy was the first time they had experienced violence. Of the respondents who had experienced violence by a current partner, 18.per cent experienced the violence during pregnancy, 5.2 per cent for the first time. [ABS PSS 2016]

Misuse of alcohol or drugs by perpetrator [Graham et al 2011]

A 2014 Australian Parliamentary Library overview of domestic, family and sexual violence noted that an analysis of the Australian component of the International Violence against Women Survey conducted in 2002-03 found that one of the strongest risk factors for intimate partner physical violence was behavioural, with the involvement of **alcohol and drug** misuse often leading to higher levels of aggression by perpetrators and more serious injury as a consequence. The research noted that 'abusive males with alcohol or drug problems inflict violence against their partners more frequently, are more apt to inflict serious injuries, are more likely to be sexually assaultive and are more likely to be violent outside the home than abusers without a history of substance abuse' [Phillips & Vandenbroek 2014]. The Victorian Systemic Review of Family Violence Deaths 1 January 2011 to 31 December 2015 found that 35.3 per cent of family violence homicide offenders misused substances at the time of the fatal incident. [Vic Systemic Review 2020] The Queensland Domestic and Family Violence Review and Advisory Board in its 2018-19 Annual Report reported evidence of harmful substance abuse by 47.8 per cent of family and domestic violence homicide offenders between 2006 and 2018. [Queensland Government Domestic and Family Violence Death Review 2019] Alcohol misuse by the perpetrator was reported as a factor in 41 per cent of all domestic and family violence incidents in New South Wales in 2010 [Grech & Burgess 2011], and in 44 per cent (87 per cent for Aboriginal and Torres Strait Islander people) of domestic and family violence related homicides Australia-wide between 2000 and 2006 [Dearden & Payne 2009]. The accessibility of alcohol also has a relationship to the risk of violence. Australian research indicates that rates of violence are heightened in areas where takeaway alcohol is available for purchase [Livingston 2010].

Stalking

In assessing the relative significance of risk factors for predicting lethal or near lethal harm to victims of domestic and family violence, a large sample size study across ten US cities revealed that significantly more of the women killed or nearly killed than those who were not had histories of **stalking** in their abusive relationships. The same study indicated that being “followed or spied on” by the abuser in the 12 months before the lethal or near lethal incident resulted in a nearly 2.5-fold risk [McFarlane et al 2002]. A later study showed that psychological abuse and stalking contributed uniquely to the prediction of severe injuries [Mechanic et al 2008]. The Queensland Domestic and Family Violence Review and Advisory Board in its 2018-19 Annual Report reported evidence of stalking by 12.8 per cent of family and domestic violence homicide offenders between 2006 and 2018. [Queensland Government Domestic and Family Violence Death Review 2019]

Controlling, jealous, obsessive behaviours by the perpetrator

Findings from the Queensland State Coroner’s Office suggest a correlation between a perpetrator’s controlling, jealous or obsessive behaviours towards the victim and violence causing lethal harm to the victim. Where a woman was killed by her male intimate partner, the Coroner found controlling and related behaviours by the perpetrator in 36 per cent of cases. For the same offence in the same period, the Coroner found that the perpetrator had displayed jealous or obsessive behaviour in 30 per cent of cases. The perpetrator may have been ‘intensely preoccupied’ with the victim or ‘continuously suspected or accused’ the victim of infidelity [Qld Coroner 2014]. Subsequently the Queensland Domestic and Family Violence Review and Advisory Board in its 2018-19 Annual Report reported evidence of controlling behaviours by 39.4 per cent and obsessive and/or jealous behaviours by 37.8 per cent of family and domestic violence homicide offenders between 2006 and 2018. [Queensland Government Domestic and Family Violence Death Review 2019] The Victorian Systemic Review of Family Violence Deaths 1 January 2011 to 31 December 2015 found that 78.9 per cent of domestic and family violence homicide victims were identified as having a prior history of domestic and family violence victimisation at the hands of the homicide perpetrator. [Vic Systemic Review 2020]

The controlling behaviours referred to in the previous paragraph (sometimes referred to as **coercive control**) may involve the perpetrator spatially confining or restraining the victim; asserting exclusive possession over the victim; monopolising the victim’s skills and resources; restricting the victim’s access to finances and employment; or preventing the victim from keeping in touch with social networks, escaping the abusive relationship, or seeking help and support [Bagshaw et al 2000]. The effect may be to physically and socially isolate the victim, and, over time, undermine the victim’s sense of identity, independence and self worth, and place them at greater risk of further domestic and family violence.

Suicide threat by perpetrator

There is evidence to suggest a correlation between severe domestic and family violence and threat of suicide by the perpetrator [Campbell et al 2003a]. The Queensland State Coroner [Qld Coroner 2014] records the number of murder-suicides [Qld Coroner 2014] in Queensland each year. This calculation includes cases where the perpetrator has attempted suicide, and survived, after committing the murder. Thirteen per cent of 180 domestic and family violence related deaths in Queensland in 2006-2013 were murder-suicides. The NSW Domestic Violence Death Review Team Annual Report 2017-2019 recorded that 23 per cent of all male intimate partner perpetrators suicided after murdering their intimate partners. [NSW DV Death Review 2020] In the period 2000-2010 in Victoria, of the 31 homicide-suicides, 17 involved intimate partners and the Victorian Systemic Review of Family Violence Deaths 1 January 2011 to 31 December 2015 found that 14 per cent of the 85 family violence homicide perpetrators suicided at the time of the incident or subsequently. [Vic Systemic Review 2020] The Ombudsman Western Australia reported that, in the period 2012-2015, of the 35 domestic and family violence related deaths, 8 were homicide-suicides where in all cases the male killed the female and subsequently suicided. [WA Ombudsman 2017]

Step-child in the family

A number of studies have investigated the prevalence and severity of domestic and family violence against women with children fathered by someone other than the perpetrator [Campbell et al 2003a]. A recent comparative study found that women with some or all children not fathered by the perpetrator were 30 per cent more likely to experience lethal harm and 20 per cent more likely to experience at least one life-threatening violent incident than women whose children were all fathered by the perpetrator; further, these women represented 65 per cent of the homicide victims in the study [Miner et al 2012]. An earlier study found that the presence of a step-child in the family more than doubled the risk of the mother being killed [Campbell et al 2003a].

Parenting proceedings

An Australian study found that domestic and family violence is a common experience among separated parents, with mothers reporting physical or emotional abuse in greater proportions than fathers. Another study reported high rates of ongoing fear and abuse associated with post-separation parenting arrangements and decision-making [Wilcox 2012]. In these circumstances, a parent may use their joint parenting role or related judicial options as a means of exercising ongoing control over their former partner and may be considered as **systems abuse** and part of a pattern of abusive behaviours aimed at controlling the victim, sometimes referred to as **coercive control**.